Principal Commissioner Of Income Tax vs M/S. Dulichand Champalal Textile

ID: F2J-C-2564 **Court:** Calcutta High Court
Case: ITAT/253/2022 **Date:** 2023-01-09

Calcutta High Court Principal Commissioner Of Income Tax ... vs M/S. Dulichand Champalal Textile on 9 January, 2023 Author: T.S. Sivagnanam Bench: T.S. Sivagnanam, Hiranmay Bhattacharyya OD-13 IN THE HIGH COURT AT CALCUTTA SPECIAL JURISDICTION (INCOME TAX) ORIGINAL SIDE

ITAT/253/2022 IA NO: GA/1/2022, GA/2/2022

PRINCIPAL COMMISSIONER OF INCOME TAX CENTRAL - 1, KOLKATA VS. M/s. DULICHAND CHAMPALAL TEXTILE

BEFORE : THE HON'BLE JUSTICE T.S. SIVAGNANAM And THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA Date : 9th January, 2023

Appearance : Mr. Prithu Dhudheria, Adv. ...for appellant. Mr. S.M. Surana, Adv., Adv. ..for respondent GA/1/2022 The Court : - We have heard Mr. Prithu Dhudheria, learned standing counsel for the appellant and Mr. S.M. Surana, learned Advocate appearing for the respondent/assessee. There is a delay of 343 days in filing the appeal. On perusal of the affidavit filed in support of the petition we find that sufficient cause has been shown for not preferring the appeal within the period of limitation. The application is allowed. The delay in filing the appeal is condoned. ITAT/253/2022 This appeal filed by the revenue under Section 260A of the Income Tax Act, 1961 (the Act) is directed against the order dated 13th May, 2021 passed by the Income Tax Appellate Tribunal, A Bench, Kolkata (the Tribunal) in ITA/27/KOL/2021 for the assessment year 2013-14. The revenue has raised the following substantial questions of law for consideration:-

i) WHETHER on the facts and in the circumstances of the case the Learned Income Tax Appellate Tribunal has erred in law in deleting the addition of Rs.3,49,49,302/- made under Section 68 of the Income Tax Act, 1961? 2

ii) WHETHER on the facts and in the circumstances of the case the Learned Income Tax Appellate Tribunal has erred in law in deleting the addition of Rs.36,64,906/- under Section 2(22)(e) of the Income Tax Act, 1961 by relying on the order in the case of Pradip Kumar Malhotra Vs. CIT in which advance was given to the assessee for retaining the benefit of bank loan to the company and therefore facts are distinguishable from the present case?

We have heard Mr. Prithu Dhudheria, learned standing counsel for the appellant and Mr. S.M. Surana, learned Advocate appearing for the respondent/assessee. After elaborate hearing the learned Advocates for the parties and carefully perusing the order passed by the learned Tribunal we find that the appeal filed by the revenue was dismissed by the learned Tribunal noting that the assessing officer in his remand report has not given any adverse finding as regards the year under consideration. Therefore, the learned Tribunal dismissed the revenue's appeal. With regard to the addition made under Section 2(22)(e) of the Act the learned Tribunal had followed the decision of this Court in Pradip Kumar Malhotra Vs. CIT ; 2011 338 ITR 538 (Cal), as well as the decision of the High Court of Delhi in the case of CIT Vs. Creative Dying & Printing (P) Ltd. ; [2009] 318 ITR 476 (Delhi) and dismissed the appeal filed by the revenue affirming the order passed by the CIT(A). Thus we find that there is no substantial questions of law arising for consideration in this appeal. Accordingly, the appeal fails and dismissed.

(T.S. SIVAGNANAM, J.) (HIRANMAY BHATTACHARYYA, J.) Pkd/GH.