Commissioner of Income Tax Vs Ispat Industries Ltd.

None

Court: Calcutta High Court

Date of Decision: Nov. 23, 2007

Acts Referred:
Income Tax Act, 1961 â€" Section 115J

Hon'ble Judges: Sankar Prasad Mitra, J; Pinaki Chandra Ghose, J

Bench: Division Bench

Final Decision: Dismissed

Judgement

1. We have perused the application filed for condonation of delay. We are satisfied with the grounds mentioned therein. Hence delay is condoned

and the application being GA No. 2819 of 2007 is allowed.

2. We have heard learned Counsel for the parties. We have also perused the order passed by the learned Tribunal. The question arose whether

the deletion as made by the Commissioner (Appeal) is correct in the facts and circumstances of the case. All the questions which were raised

before the Tribunal were duly dealt with by the learned Tribunal extensively and the reasons were given by the learned Tribunal after taking into

consideration the decision"" of the Hon"ble Apex Court in Apollo Tyres Ltd. v. CIT (2002) 295 ITR 273. The learned Tribunal also relied upon

the said decision in particular with regard to computation of book profit for the purpose of Section 115J and the following observation has been

made:

The assessing officer, while computing the book profits of a company u/s 115J of the Income Tax Act, 1961, has only the power of examining

whether the books of account are certified by the authorities under the Companies Act as having been properly maintained in accordance with the

Companies Act. The assessing officer, thereafter, has the limited power of making increases and reductions as provided for in the Explanation to

Section 115J. The assessing officer does not have the jurisdiction to go behind the net profits shown in the P&L a/c except to the extent provided

in the Explanation. The use of the words "in accordance with the provisions of Parts II and III of Sch. VI to the Companies Act" in Section 115J

was made for the limited purpose of empowering the assessing officer to rely upon the authentic statement of accounts of the company. While so

looking into the accounts of the company, the assessing officer has to accept the authenticity of the accounts with reference to the provisions of the

Companies Act, which obligate the company to maintain its accounts in a manner provided by the Act and the same to be scrutinized and certified

by statutory auditors and approved by the company in general meeting and thereafter to be filed before the RoC who has a statutory obligation

also to examine and be satisfied that the accounts of the company are maintained in accordance with the requirements of the Companies Act. Sub-

section (1A) of Section 115J does not empower the assessing officer to embark upon a fresh enquiry in regard to the entries made in the books of

account of the company.

3. Accordingly, it appears that the learned Tribunal correctly held that the assessing officer has to accept the authenticity of the account maintained

in accordance with the provisions of the Companies Act in particular Part II and Part III of Sch. VI to the said Act which are specifically certified

by the auditors and approved by the company in the annual general meeting.

4. Hence we do not find that there is any fault on the part of the Tribunal to decide the matter nor there is any substantial question of law involved

which is required to be gone into by this Court.

5. Accordingly, this application is dismissed.