

Poddar Projects Ltd. Vs. Commissioner of Income Tax, Kolkata Iv

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Court : Kolkata

Decided On : Sep-18-2014

Judge : Soumitra Pal

Appellant : Poddar Projects Ltd.

Respondent : Commissioner of Income Tax, Kolkata Iv

Judgement :

ORDER

SHEET IN THE HIGH COURT AT CALCUTTA Special Jurisdiction (Income Tax)
ORIGINAL SIDE ITA No.845 of 2004 PODDAR PROJECTS LTD.Versus
COMMISSIONER OF INCOME TAX, KOLKATA - IV BEFORE: The Hon'ble
JUSTICE SOUMITRA PAL The Hon'ble JUSTICE DEBANGSU BASAK Date :
18th September, 2014.

Md.Nizamuddin, Advocate.

The Court : None appears on behalf of the revenue when the matter is called on.

Md.Nizamuddin, learned advocate, who normally appears on behalf of the revenue, is requested to appear in this matter.

Learned Central Government advocate is directed to regularize the appointment of Md.Nizamuddin.

The appeal was admitted on the following questions : i) Whether the Income Tax Appellate Tribunal ought not to have held that the surcharge on municipal tax was part of the rent and/or annual value for the purposes of section 23(1) of the Income Tax Act, 1961 as it stood prior to its amendment by the Finance Act, 2001 with effect from 01.04.2002 ?.

ii) Whether on the facts and in the circumstances of the case the Income Tax Appellate Tribunal was justified in law in holding that for determining annual value in accordance with the provisions of section 23 of the Income Tax Act, 1961, the word rent appearing therein would encompass Surcharge on Municipal Tax in respect of a property let out to a tenant and used by him for commercial or nonresidential purposes ?.

iii) Whether the Income Tax Appellate Tribunal was justified in law in holding that the surcharge on municipal taxes i.e.surcharge on the consolidated rate, as referred to in Calcutta Municipal Corporation Act, 1980 collected and recovered by the assessee, as the owner of the premises, from the tenants or occupiers is part of the actual rent received by the assessee within the meaning of subclause (b) of sub-section (1) of section 23 of the Income Tax Act, 1961 and consequently the surcharge on Municipal Taxes amounting to Rs.6,76,627/- be included for the purpose of determination of income under the head Income from House Property ?. It is submitted by Md.Nizamuddin that the issues are covered by the judgment in the assessee's own case in Poddar Projects LTD.versus CIT, Cal : 2011 Taxmann 493 in favour of the Revenue.

Since we find that the questions are squarely covered by the judgment of Poddar Projects LTD.(supra).the appeal is dismissed.

(SOUMITRA PAL, J.) (DEBANGSU BASAK, J.) km AR(CR)

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