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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of Decision: 09.10.2023*

+ **ITA 567/2023**

THE COMMISSIONER OF INCOME TAX - INTERNATIONAL
TAXATION -3 Appellant

Through: Mr Ruchir Bhatia, Sr Standing
Counsel with Ms Deeksha Gupta,
Adv.

versus

STANDARD CHARTERED GRINDLAYS PTY
LTD.(FORMERELY ANZ GRINDLAYS BANK) Respondent

Through: Nemo.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MR. JUSTICE GIRISH KATHPALIA

[Physical Hearing/Hybrid Hearing (as per request)]

RAJIV SHAKDHER, J.: (ORAL)

CM Appl. 51975/2023 [*Application moved on behalf of the
appellant/revenue seeking condonation of delay of 400 days in re-filing
the appeal*]

1. This is an application moved on behalf of the appellant/revenue seeking condonation of delay in re-filing the appeal.

1.1 According to the appellant/revenue, there is a delay of four hundred (400) days.

2. Given the fact that we intend to decide the appeal on merits, delay in



re-filing the appeal is condoned.

3. The application is disposed of in the aforesaid terms.

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4. This appeal concerns Assessment Year (AY) 1997-98.

5. *Via* the instant appeal, the appellant/revenue seeks to assail the order dated 21.07.2020 passed by the Income Tax Appellate Tribunal [in short, “Tribunal”].

5.1 The Tribunal, *via* the impugned order, has set aside the penalty order passed *qua* the respondent/assessee.

6. The record shows that the Assessing Officer (AO) passed a penalty order dated 30.03.2007 against the respondent/assessee under Section 271(1)(c) of the Income-tax Act, 1961 [in short, “Act”] on the ground that the respondent/assessee had deliberately concealed facts and furnished inaccurate particulars concerning its taxable income.

7. The penalty order was confirmed by the Commissioner of Income Tax (Appeals) [in short, “CIT(A)”] *via* the order dated 28.04.2017. The respondent/assessee was, thus, mulcted with a penalty amounting to Rs. 21,48,56,826/-.

8. A perusal of the impugned order shows that the trigger for the penalty was the following additions that had been made by the AO, which were, then sustained by the CIT(A). The details of the additions are set for hereafter:

Disallowance	Amount
(i) Training expenses disallowed under Rule 6D	Rs. 6,89,264/-
(ii) Disallowance of provision under	Rs. 4,35,35,093/-



Section 36(1)(via) of the Act	
Disallowance under Section 115(3) of the Act	Rs. 81,24,418/-
VRS expenses [amortized]	Rs. 33,84,00,000/-

9. The Tribunal, however, in quantum proceedings, *via* order dated 30.01.2017, deleted the expenses that were disallowed under Rule 6D of the Income-tax Rules, 1962, as well as VRS expenses that had been amortized.

10. Likewise, upon remand by the Tribunal, *via* the appeal effect order, the AO fully allowed the deduction claimed by the respondent/assessee under Section 36(1)(viiia). It is required to be noticed that, insofar as disallowance under Section 115(3) of the Act was concerned, the Tribunal, in quantum proceedings, in the order dated 30.01.2017, had directed the AO to recompute the same as per the formula outlined in paragraph 48 of its order.

11. Therefore, out of the four (4) additions referred to hereinabove, in the quantum proceedings, the respondent/assessee ultimately succeeded in getting three (3) out of the (4) additions deleted.

12. As regards disallowance made under Section 115(3) of the Act, the Tribunal noted that, since the assessee had neither furnished inaccurate particulars nor did it conceal income, a penalty could not be levied on that score. These aspects are noted by the Tribunal in paragraphs 9 to 11 of the impugned order. We tend to agree with the view taken in that behalf by the Tribunal.

13. Therefore, having regard to the aforesaid, in our opinion, no substantial question of law arises for our consideration.



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14. The appeal is, accordingly, closed.

RAJIV SHAKDHER, J

GIRISH KATHPALIA, J

OCTOBER 9, 2023/pmc