S/L 42
06.12.2021
Court. No. 2
cm

WPA 4082 of 2021
Vikash Nagelia
Vs.
Commissioner of Income Tax, Kolkata-II & Anr.
(Through Video Conference)

Mr. Suryaneel Das
.... For the Petitioner.
Mr. Dhiraj Trivedi
Mr. Manabendra Nath Bandyopadhyay
... For the respondents

Heard learned advocates appearing for the parties.

In this matter, petitioner has challenged the impugned order dated 26th February, 2013 passed by the Commissioner of Income Tax under Section 264 of the Income Tax Act, 1961 after eight years. Petitioner submits that due to mistake he had filed an appeal before the Tribunal against the assessment order in question and it appears from record that the said appeal was dismissed on 25th September, 2014 as it appears from Annexure P-5 to the writ petition and even if the explanation of the petitioner is accepted the time was consumed by him in the appeal in that case also from the order of the Tribunal it is after almost seven years in approaching the writ court and this in-ordinate delay itself is sufficient ground for refusal to entertain the writ petition. In justification of delay of this seven years, petitioner wants to rely on Paragraphs 7 and 8 of this writ petition but I am not convinced with the same since the writ court is a court of equity and it is for those who are vigilant and diligent to their rights and not for those who sleep over their rights. In addition, I find that the impugned order dated 26th February, 2013 being Annexure P-3 to the writ petition was passed by giving opportunity of hearing to the petitioner but he did not avail that opportunity and he asked further adjournment.

Considering these facts, this writ petition, being WPA 4082 of 2021 is dismissed.

(Md. Nizamuddin, J.)