

HIGH COURT AT CALCUTTA
(ORIGINAL SIDE)

ITAT/62/2020
GA/1/2020, GA/2/2020
(Through Video Conferencing)

PRINCIPAL COMMISSIONER OF INCOME TAX, CENTRAL – 1,
KOLKATA

....Appellant(s)

Through: Mr. S.N.Dutta, Advocate

v/s

M/s. INDIAN ROADWAYS CORP. LTD.

....Respondent(s)

Through: Mr. S. Kejriwal, Advocate(VC),
with Mr. G.S. Gupta, Advocate.

Coram : HON'BLE MR. JUSTICE RAJESH BINDAL, JUDGE

HON'BLE MR. JUSTICE ANIRUDDHA ROY, JUDGE

O R D E R

1. The revenue has filed the present appeal against the order dated 12th September, 2018 passed by the Income Tax Appellate Tribunal “A” Bench, Kolkata (for short ‘the Tribunal’) in I.T.A. No. 787/Kol/2018. The appeal is accompanied by an application seeking condonation of delay of 638 days in filing thereof.

2. As is evident from paragraph 11 of the Stay Application, amount of tax involved in the appeal is ₹20,98,313/-.

3. When the appeal was taken up learned Counsel for the appellant submitted the tax effect involved in the present appeal is below ₹ one crore. He prayed for withdrawal of the present appeal.

4. Before accepting the prayer made by the appellant we are constrained to notice certain facts. A Circular No. 17/2019 F. No.279/Misc. 142/2007-ITJ (Pt.) was issued by Government of India, Ministry of Finance, Department of Revenue, Central Board of Direct Taxes, Judicial Section dated August 8, 2019. It prescribed minimum limit of ₹ one crore for filing or pursuing the appeals before the High Court. Present appeal was filed in this Court on December 1, 2020 i.e. more than one year after issuance of the aforesaid circular.

5. In spite of the aforesaid circular appeal was filed in the present case involving the tax for ₹20,98,313/- that too along with an application seeking condonation of delay of 638 days.

6. While permitting withdrawal of the appeal, in our opinion the department deserves to be burdened with cost of ₹50,000/-. It is for the reason that despite circulars issued by CBDT, belated appeal was filed where tax effect is merely ₹20,98,318/-. Prior that circular had been issued on July 11, 2018 prescribing limit of ₹50 lakhs for filing appeals before this Court. Even that was also violated.

7. Ordered accordingly.

8. The cost shall be recovered personally from the officer(s) who opined the case to be fit for filing the appeal. The same shall not be reimbursed by the department under any circumstances.

9. The cost shall be deposited with the West Bengal State Legal Services Authority, within a period of four weeks from today.

10. Affidavit shall be filed with the Registry on or before May 14, 2021 regarding compliance of the order with reference to recovery of the amount from the officer(s) concerned.

KOLKATA
08.02.2021
GH/As.

(ANIRUDDHA ROY)
JUDGE

(RAJESH BINDAL)
JUDGE