OD-11 & 12

IN THE HIGH COURT AT CALCUTTA
SPECIAL JURISDICTION (INCOME TAX)
ORIGINAL SIDE

IA No.GA/1/2021
ITA/52/2021

PRINCIPAL COMMISSIONER OF INCOME TAX, KOLKATA
-Versus-
M/S. GANESH REALTY AND MALL DEVELOPMENT PVT. LIMITED

IA No.GA/2/2021
ITA/52/2021

PRINCIPAL COMMISSIONER OF INCOME TAX, KOLKATA
-Versus-
M/S. GANESH REALTY AND MALL DEVELOPMENT PVT. LIMITED

Appearance:
Ms. Sucharita Biswas, Adv.
Mr. Arunava Ganguly, Adv.
...for the Appellant.

Mr. Ranjeet Murarka, Sr. Adv.
Mr. Vivek Murarka, Adv.
Mr. Dibanath Dey, Adv.
..for Respondent.

BEFORE:
The Hon'ble JUSTICE T.S. SIVAGNANAM
-And-
The Hon'ble JUSTICE HIRANMAY BHATTACHARYYA
Date : 7th March, 2022.

The Court :- In terms of the order passed on the earlier occasion, two affidavits have been filed by the officers of the department attempting to explain the mistakes which have occurred. There is a apology tendered by both the officers. Third affidavit has been filed by suggesting certain substantial questions of law realising that the questions of law suggested in the memorandum of appeal are not connected with the subject-matter in the appeal.

The learned senior counsel for the respondent objected to amendment of the memorandum by way of an affidavit and it is submitted that the questions of law suggested in the memorandum of appeal are totally irrelevant to the facts. The appeal is defective and in such a defective appeal the question of entertaining an application for condonation of delay could not arise. That apart, by a judgment dated 11th February, 2022 in ITAT No.66 of 2021 the appeal filed by the revenue was dismissed which is a common order passed by the tribunal for two assessment years.

The learned junior standing counsel had appeared before the Court and tendered unconditional apology for having forwarded the memorandum of appeal which was being settled by the learned senior standing counsel. The apology tendered by the learned junior standing counsel is accepted. That apart, from the office report it appears that the deficit court fees have not been paid by the department.

Thus, considering all these facts and also noting that the very same impugned order by the tribunal was affirmed in ITAT No.66 of 2021, we do not find any scope to consider any of the prayers made by the appellant department. Accordingly, all the applications stand dismissed. Consequently, the appeal stands rejected.

Affidavits filed by the appellant be kept with the records.

(T.S. SIVAGNANAM, J.)

(HIRANMAY BHATTACHARYYA, J.)

S.Das/nm.