OD-7

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

ITAT/21/2012
IA NO: GA/1/2012 (OLD NO. GA/211/2012)
GA/2/2012 (OLD NO. GA/212/2012)
COMMISSIONER OF INCOME TAX, KOLKATA-II, KOLKATA
Vs
M/S ESSEL MINING & INDUSTRIES LIMITED

BEFORE :
THE HON'BLE JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
Date : 6th June, 2022.

Appearance:
Mr. Soumen Bhattacharjee, Adv.
... for the appellant.

Mr. J.P. Khaitan, Sr. Adv.
Ms. Swapna Das, Adv.
Mr. Siddherth Das, Adv.
... for the respondent.

The Court : There is a delay of 3329 days in filing this appeal.

We have perused the affidavit filed in support of the application for condonation of delay and found that there is absolutely no explanation for the inordinate delay of 3329 days in filing the appeal. That apart, we find the Tribunal had followed the decision in assessee's own case for assessment years 1992-93, 1993-94, 1994-95 and 1995-96.

Though the revenue had filed appeals against those orders passed by the Tribunal in the aforementioned assessment years, the appeal was dismissed on account of the revenue's failures to rectify the defect pointed out by the registry. Be that as it may, thus, the order passed by the Tribunal dated 7.1.2000 has attained finality. That apart, we find that the legal issue has been settled by the

Hon'ble Supreme Court in *ITO v.ARIHANT TILES AND MARBLES P. LTD. (SC)* : [2010] 320 ITR 79 (SC).

Thus, we find that there is absolutely no ground made out by the revenue to exercise any discretion.

Consequently, the application for condonation of delay is dismissed and the appeal stands rejected.

The application for stay also stands dismissed.

(T.S. SIVAGNANAM, J.)

(HIRANMAY BHATTACHARYYA, J.)

S.pal/GH