OD-1 & 2

IN THE HIGH COURT AT CALCUTTA
Special Jurisdiction (Income tax)
ORIGINAL SIDE

IA No. GA/1/2020 (Old No. GA/472/2020)
ITAT/10/2020
PRINCIPAL COMMISSIONER OF INCOME TAX-4, KOLKATA
Vs.
M/S TCG LIFESCIENCES LTD.

IA No. GA/2/2020 (Old No. GA/473/2020)
ITAT/10/2020
PRINCIPAL COMMISSIONER OF INCOME TAX-4, KOLKATA
Vs.
M/S TCG LIFESCIENCES LTD.

BEFORE:
The Hon'ble JUSTICE T. S. SIVAGNANAM
AND
The Hon'ble JUSTICE HIRANMAY BHATTACHARYYA
Date : 8th April, 2022.

Appearance :
Mr. Tilak Mitra, Adv.
... for the appellant

Mr. Ananda Sen, Adv.
... for the respondent

The Court : We have heard Mr. Tilak Mitra, learned standing counsel for the appellant and Mr. Ananda Sen, learned counsel for the respondent.

There is a delay of 643 days in filing the appeal. The order passed by the Tribunal which is impugned in this appeal is dated 11.11.2017. The copy of the order was received by the Income Tax Department on 01.12.2017 and the appeal memorandum was presented before this Court on 03.01.2020. Thus, we are required to see as to whether there is sufficient cause shown by the appellant for not preferring the appeal, though they should have preferred the appeal within four months from the date of the receipt of the copy of the order i.e. 01.12.2017.

We have perused the averments set out in the affidavit filed in support of the condone delay petition and we find there is absolutely no explanation for a period of more than 300 days. In fact, the relevant dates have been filled up by hand in the affidavit and even going by those dates, we find that there is no sufficient explanation. The learned Advocate appearing for the respondent/assessee has filed an affidavit in opposition pointing out that though the petition was affirmed on 23.12.2019, it was actually filed on an unspecified date in the year 2020 resulting in delay of 643 days. Furthermore, in the affidavit in opposition it has been pointed out as to which are the period for which the delay has not been explained. Thus, we find that no sufficient cause has been shown for condonation of the inordinate delay of 643 days. For such aforestated reasons, the petition is dismissed. Consequently, the appeal stands rejected.

However, we make it clear that substantial question of law raised by the revenue has not been decided and left open.

The stay application also stands dismissed.

(T. S. SIVAGNANAM, J.)

(HIRANMAY BHATTACHARYYA, J.)

RS/GH.