OD-31&32

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

ITAT/50/2021
IA NO: GA/1/2021
PRINCIPAL COMMISSIONER OF INCOME TAX, KOLKATA-1, KOLKATA
VERSUS
THE WEST BENGAL STATE CO-OPERATIVE BANK LTD.

ITAT/50/2021
IA NO: GA/2/2021
PRINCIPAL COMMISSIONER OF INCOME TAX, KOLKATA-1, KOLKATA
VERSUS
THE WEST BENGAL STATE CO-OPERATIVE BANK LTD.

BEFORE :

THE HON'BLE JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA

Date : 11th April, 2022

Appearance :-
Mr. Om Narayan Rai, Adv.
... For Appellant

Mr. Soumitra Chowdhury, Adv.
Mr. Avra Majumder, Adv.
Mr. B. Gupta, Adv.
... For Respondent

The Court : The affidavit-in-opposition as well as the reply filed in Court today be taken on record.

We have heard Mr. Om Narayan Rai, learned Standing Counsel appearing for the appellant/revenue and Mr. Soumitra Chowdhury, learned Counsel appearing for the respondent/assessee.

There is a delay of 1022 days in filing the appeal. We have perused the affidavit filed in support of the condone delay petition and we find absolutely no reasons have been assigned for condoning the inordinate delay in filing the appeal. That apart, we note that identical issue, in the assessee's own case, for the assessment year 2008-09 travelled upto the Tribunal and the Tribunal by order dated 30th November, 2017 in ITA No.746/Kol/2013 for the assessment year 2009-10 set aside the order passed by the Assessing Officer as well as the CIT(A) and remanded the matter back to the Assessing Officer. The Assessing Officer, namely, the Assistant Commissioner of Income Tax, by order dated 21st December, 2018 completed the assessment for the said assessment year, namely, 2009-10 and allowed the claim made by the assessee following the decision of the High Court of Bombay in American Express International Banking Corporation vs. Commissioner of Income-tax & Another reported in (2002) 258 ITR 601. Therefore, on merits also the revenue does not have a case to fault the order passed by the Tribunal. In any event, in the absence of any explanation for condoning the inordinate delay, we refuse to exercise discretion in favour of the appellant department.

For such reason, the application for condonation of delay being IA No. GA/1/2021 is dismissed. Consequently, the appeal stands rejected.

(T.S. SIVAGNANAM, J.)

(HIRANMAY BHATTACHARYYA, J.)

S.Pal/SN
AR(CR)