OD-1

ITA/3/2021

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

HARSHITA CHHAWCHHARIA

-Versus-

COMMISSIONER OF INCOME TAX,
KOLKATA-20

Appearance:
Mr. Indranil Banerjee, Adv.
...for the appellant.

Mr. Tilak Mitra, Adv.
...for the respondent.

BEFORE:
The Hon'ble JUSTICE T.S. SIVAGNANAM
-And-
The Hon'ble JUSTICE HIRANMAY BHATTACHARYYA

Date : 7th June, 2022.

The Court : This appeal filed by the assessee under Section 260A of the Income Tax Act, 1961 (the 'Act' for brevity) is directed against the order dated March 27, 2019 passed by the Income Tax Appellate Tribunal, "D" Bench, Kolkata in ITA No.659/Kol/2013 for the assessment year 2009-10.

The assessee has raised the following substantial question of law for consideration:

i) *Whether, on a true and proper interpretation of Section 254 of the Act read with Rule 24 of the Appellate Tribunal Rules, the Tribunal was justified in law in dismissing the appeal filed by the appellant solely on the ground of non-appearance instead of deciding the same on merits ?*

We have heard Mr. Indranil Banerjee, learned Advocate appearing for the appellant/assessee and Mr. Tilak Mitra, learned standing counsel for the respondent/revenue.

The learned Advocate appearing for the appellant/assessee has circulated a letter stating that the appellant/assessee has availed the settlement scheme and Form-3 has been issued by the competent authority. It is further submitted that till date the final discharge certificate has not been issued to the assessee and, therefore, the learned Advocate would submit that leave may be granted to the appellant to withdraw this appeal and, in the event, the settlement does not fall through, liberty may be granted to restore the appeal in the file of this Court. We have heard Mr. Mitra on the above submission.

In the light of the stand taken by the appellant, the above appeal (ITA/3/2021) stands dismissed as withdrawn with liberty to the appellant to restore the appeal in the event the settlement process does not fall through. While seeking for restoration, the Registry shall not insist upon any application for condonation of delay but as and when the application for restoration is filed, the same shall be listed for hearing.

Consequently, the substantial question of law is left open.

(T.S. SIVAGNANAM, J.)

(HIRANMAY BHATTACHARYYA, J.)

Pkd/As.