OD-5&6

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

IA No.GA/5/2021
APO/415/2017

THE COMMISSIONER OF CENTRAL EXCISE, KOLKATA-IV, COMMISSIONERATE
-Versus-
M/S. KUSUM PRODUCTS LTD. & ANR.

IA No.GA/4/2021
APO/415/2017

THE COMMISSIONER OF CENTRAL EXCISE, KOLKATA-IV, COMMISSIONERATE
-Versus-
M/S. KUSUM PRODUCTS LTD. & ANR.

Appearance:
Mr. Uday Sankar Bhattacharyya, Adv.
Ms. Aishwarya Rajyashree, Adv.
Ms. Banani Bhattacharya, Adv.
...for the appellant.

Mr. Nirmal Kumar Chakraborty, Adv.
Mr. Arijit Chakrabarti, Adv.
...for the respondents.

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

Date : 14th March, 2022.

IA No.GA/5/2021 & IA No.GA/4/2021

The Court : We have heard Mr. Uday Sankar Bhattacharyya, learned counsel assisted by Ms. Aishwarya Rajyashrwee and Ms. Banani Bhattacharyya, learned Advocates appearing for the appellant and Mr. Nirmal Kumar Chakraborty, learned counsel assisted by Mr. Arijit Chakraborty, learned Advocate for the respondent.

The facts and circumstances of the case on hand are identical to that of APO/414/2017. In the instant case also there has been a delay in filing the application for restoration. The appeal was also filed after expiry of the period of limitation and the parties are also the same. The only difference in the case on hand is that the writ petition was disposed of by a separate order on a different date. In any event, the legal principle which arises for consideration in the instant case is identical to that of APO/414/2017.

Therefore, the decision in APO/414/2017 will be squarely applicable to the case on hand. In the result, the application for condonation of delay being IA No.GA/4/2021 is allowed.

Consequently, the application for restoration of the appeal being IA No.GA/5/2021 stands allowed and the appeal and the application are restored and the initial delay in filing the appeal is condoned and the appeal shall be heard and decided on merits.

APO/415/2017

This appeal filed by the revenue is directed against the order dated 20th September, 2016 passed in WPO/1418/2005. As already pointed out, the facts of the case on hand are identical to that in APO/414/2017 which has been dismissed subject to certain observations and directions, therefore, on the similar line, the present appeal is dismissed with the same observations and directions.

(T.S. SIVAGNANAM, J.)

(HIRANMAY BHATTACHARYYA, J.)

As/S.De.