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

ITAT/178/2022
IA NO. GA/1/2022; GA/2/2022
PRINCIPAL COMMISSIONER OF INCOME TAX, ASANSOL
Vs
NEERJA SARAF

BEFORE :
THE HON'BLE JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
Dated : NOVEMBER 10, 2022.

Appearance:
Mr. Tilak Mitra, Adv.
..for appellant
Mr. Amit Agarwala, Adv.
Mr. Arif Ali, Adv.
…for respondent

The Court :- We have heard Mr. Tilak Mitra, learned standing Counsel for the appellant/revenue and Mr. Amit Agarwalla, learned Advocate for the respondent/assessee.

There is a delay of 1009 days in filing the appeal. We have perused the affidavit filed in support of the application and we find that substantial part of the delay has not been explained and all that the revenue seeks to rely upon the order passed by the Supreme Court extending the period of limitation in filing the appeal. However, it is seen that the order passed by the Tribunal was received by the Income Tax Department on 16th July, 2019, but the date from which the limitation stood extended by the Hon'ble Supreme Court is only from March 2020. The delay having not been explained and being inordinate we are not inclined to exercise discretion in favour of the appellant/revenue.

The learned Advocate appearing for the respondent submitted even on merits the respondent has got a good case as this Court in an identical had upheld the order passed by the Tribunal where the Tribunal held that penalty cannot be imposed when the notice issued under Section 271(1)(c) of the Income Tax Act was defective.

Thus for the above reasons GA/1/2022 is dismissed.

Consequently, the appeal stands rejected.

(T.S. SIVAGNANAM, J.)

(HIRANMAY BHATTACHARYYA, J.)

Pkd/GH