OD–5

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

ITAT/197/2022
IA NO: GA/1/2022, GA/2/2022
PRINCIPAL COMMISSIONER OF INCOME TAX 5, KOLKATA
VS.
SRI VIREANDER BARMECHA HUF

BEFORE :
THE HON'BLE JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
Date : 21st December, 2022

Appearance :
Mr. Soumen Bhattacharyya, Adv.
…for appellant.
Mr.Avra Mazumder, Adv.
…for respondent.

The Court : - We have learned counsel for the respective parties.

There is a delay of 1267 days in filing the appeal.

Affidavit in opposition has been filed and reply has also been filed by the revenue to the said affidavit. Both the affidavits are kept on record.

We have perused the list of dates and events. The learned tribunal had passed an impugned order on 5.10.2018, copy of which was received by the Commissioner of Income Tax -12, Kolkata on 15.11.2018. No decision was taken to file an appeal till 24.2.2021. The submission is that initially a decision was taken not to file an appeal and after the CBDT issued the circular dated 16.9.2019 the matter was taken up for consideration and decision to file an appeal was taken on 24.2.2021. It is seen that such a decision is said to have been taken by the department. The appeal was presented before this court on 3.9.2022. Even assuming that the period during lockdown had to be excluded that is the period between 15.2.2020 and 28.2.2022, the delay especially after the decision was taken to file the appeal by the department remains unexplained.

In any event, we find the delay to be inordinate which preclude us from exercising any discretion in favour of the appellant/revenue.

For such reason, the application is dismissed. Consequently, the appeal stands rejected.

(T.S. SIVAGNANAM, J.)

(HIRANMAY BHATTACHARYYA, J.)

Pkd/GH.