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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ ITA 244/2022

SUDIPTA BASU ..... Appellant

Through: Mr.Bibhuti Kumar Singh, Advocate with appellant in person.

versus

INCOME TAX OFFICER, WARD 52(4) - NEW DELHI & ANR. ..... Respondents

Through: Mr.Vipul Agrawal with Mr.Parth Semwal, Advocates for Mr.Zoheb Hossain, Sr.Standing Counsel for the Revenue.

% Date of Decision: 03rd August, 2022

CORAM:
HON'BLE MR. JUSTICE MANMOHAN
HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

J U D G M E N T

MANMOHAN, J (Oral):

C.M.No.33778/2022

Exemption allowed, subject to all just exceptions.

Accordingly, the application stands disposed of.

ITA No.244/2022

1. Present Income Tax Appeal has been filed challenging the Order dated 23rd December, 2021 passed by the Income Tax Appellate Tribunal ('ITAT') in ITA 1870/Del./2020 for the Assessment Year 2018-19.

2. Learned counsel for the Appellant states that the ITAT erred in disallowing the loss of Rs.8,67,803/- pertaining to the Assessment Year 2017-18.

3. He states that the ITAT erred in law and in facts by not giving a liberal construction to Section 139 of the Income Tax Act, 1961 (in short 'Act') and in not appreciating the fact that the Assessee was prevented from filing the return of income within time due to circumstances which were beyond the Assessee's control. In support of his contention, he relies upon the order dated 09th November, 2015 passed by the Metropolitan Magistrate, Vasant Kunj, New Delhi.

4. Learned counsel for the Appellant clarifies that the Appellant had filed his return on 22nd January, 2018 as against the due date of 05th August, 2017 i.e. after a delay of four months and sixteen days.

5. This Court is of the view that Section 119(2)(b) of the Act read with CBDT Circular No. 9/2015 provides a remedy to the Assessees to seek condonation of delay, in cases where Assessee could not file their income tax returns within time due to genuine hardship. Consequently, the ITAT was correct in holding that the remedy for claiming condonation of delay wherein the ITR was filed after the due date, lies with the Board and not the ITAT.

6. Accordingly, no substantial question of law arises for consideration in the present appeal and the same is dismissed.

MANMOHAN, J

MANMEET PRITAM SINGH ARORA, J

AUGUST 03, 2022
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