OD-8

APOT/26/2023
IA No.GA/1/2023

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE

GLEAM FINANCE PVT. LTD.

-Versus-

ASSISTANT COMMISSIONER OF
INCOME TAX, CIRCLE 1(1),
KOLKATA AND ORS.

BEFORE :
THE HON'BLE JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
Date : 10th February, 2023

Appearance :
Mr. Anil Kumar Dugar, Adv.
Mr. Rajarshi Chatterjee, Adv.
...for the appellant.

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

The Court : We have heard Mr. Anil Kumar Dugar, learned counsel assisted by Mr. Rajarshi Chatterjee, learned Advocate for the appellant and Mr. Tilak Mitra, learned standing counsel for the respondent/revenue.

There is a delay of 33 days in filing the appeal. We have perused the affidavit filed in support of the application for condonation of delay and we find sufficient cause has been shown for condonation of delay.

Accordingly, the application for condonation of delay (IA No.GA/1/2023) is allowed and the delay in filing the appeal is condoned.

This intra-Court appeal filed by the writ petitioner is directed against the order dated 29th November, 2022 in WPO No.2774 of 2022. The learned Single Bench by the said order, directed the respondent/Department to file their affidavit-in-opposition within a time frame and with liberty to the appellant to file a reply and directed the writ petition to be listed for final hearing in the monthly list of November, 2023.

It is submitted by the learned Advocate for the appellant that till date no affidavit-in-opposition has been filed and the matter has not been listed in the monthly list of this month.

The grievance of the appellant is that taking advantage of the fact that no interim order was granted in the writ petition and coercive action is being initiated by the assessing officer and, therefore, the assessee has preferred the appeal. If, according to the appellant, fresh cause of action and circumstances have arisen after the order passed by the learned Single Bench dated 29th November, 2022, nothing prevents the appellant from filing a fresh stay application before the learned Single Judge with a new set of facts and submission can be made before the learned Single Judge praying for appropriate interim order.

Accordingly, the appeal (APOT/26/2023) stands disposed of with liberty to the appellant to file a fresh stay application before the learned Single Bench if accordingly to the appellant fresh cause of action has arisen after the order which is impugned in this appeal.

(T.S. SIVAGNANAM, J.)

(HIRANMAY BHATTACHARYYA, J.)

A/s./S.Das