OD–4

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

ITAT/75/2023
IA NO:GA/1/2023, GA/2/2023
PRINCIPAL COMMISSIONER OF INCOME TAX-CENTRAL-1 KOLKATA
VS.
SRI MRIDUL AGARWAL

BEFORE :
THE HON'BLE JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
Date : 28th March, 2023

<u>Appearance</u> :
Mr. Tilak Mitra, Adv.
…for appellant
Ms. Swapna Das, Adv.
Mr. Siddharth Das, Adv.
…for respondent

The Court : - Heard learned advocates on either side.

The appeal filed by the revenue is barred by time and in the application filed for condonation of delay, it has been mentioned that there is a delay of 974 days. Admittedly, the certified copy of the order passed by the Tribunal was received by the Department on 18.03.2020. The department seeks to take advantage of the period during which lockdown was announced and in that process they have excluded 715 days while computing the limitation and stated that the appeal is delayed by 974 days. We have perused the affidavit in support of the petition to examine as to whether there is any acceptable explanation for 974 days in filing this appeal. From the dates and events which have been mentioned, we find that the file had been circulating within the department from one officer to another and, ultimately, the Director General of Income Tax [Investigation] granted approval for filing the appeal on 20.2.2020. The Chief Commissioner of Income Tax-2, Kolkata accorded his concurrence on 4.1.2021.

Thereafter once again the file had been circulating from various officials to the standing counsel and, ultimately, the appeal was filed on 17.3.2023. The dates clearly show that substantial part of the delay remains unexplained. A faint plea has been raised by the department attempting to blame the erstwhile standing counsel to whom the papers were entrusted for preferring the appeal. However, such averment is unsubstantiated and uncalled for. In any event, in the absence of any acceptable explanation for the inordinate delay, we are not persuaded to exercise any discretion in favour of the appellant. Therefore, the application is dismissed. Consequently, the appeal stands rejected. The substantial questions of law, which were suggested, are left open.

(T.S. SIVAGNANAM, J.)

(HIRANMAY BHATTACHARYYA, J.)

pkd/GH