OD-3

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

ITAT/96/2023
IA NO: GA/1/2023, GA/2/2023
PRINCIPAL COMMISSIONER OF INCOME TAX - 1, KOLKATA
VS.
M/s. PURE COKE LTD.

BEFORE :

THE HON'BLE CHIEF JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
Date : 12th May, 2023

Appearance :
Mr. Tilak Mitra, Adv.
…for the appellant

Mr. Amit Agarwal, Adv.
…for the respondent

The Court : We have heard Mr. Tilak Mitra, learned standing Counsel appearing for the appellant and Mr. Amit Agarwal, learned Advocate for the respondent.

There is a delay of 1322 days in filing the appeal. From the affidavit filed in support of the condone delay petition, we find that the order passed by the learned Tribunal, which is impugned in this appeal, was received by the appellant department on 29th April, 2019 and the last date for filing the appeal before the expiry of period of limitation was 27th August, 2019. However, the appeal was filed only on 10th April, 2023 and in that process 1322 days delay has occurred.

We have perused the reasons set out by the department for not preferring the appeal within the period of limitation. The department seeks to take advantage of the order passed by the Hon'ble Supreme Court in the suo motu proceedings extending the period of limitation for filing appeals from 15th March, 2020. However, it is seen that the period of limitation for filing the appeal expired on 27th August, 2019. Therefore, the department cannot fall back on the decision of the Hon'ble Supreme Court to justify the delay in this regard. That apart, sufficient cause has not been shown for the inordinate delay in filing the appeal. Therefore, we are not persuaded to exercise discretion in favour of the appellant department. Accordingly, the application is dismissed.

Consequently, the appeal stands rejected.

The substantial questions of law which have been suggested are left open.

(T.S. SIVAGNANAM, J.)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)

SN/GH.