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IN THE HIGH COURT AT CALCUTTA

CIVIL APPELLATE JURISDICTION

ORIGINAL SIDE

APOT/116/2023

IA NO.GA/1/2023

GA/2/2023

SUPERTRON ELECTRONICS PRIVATE LIMITED

-Versus-

UNION OF INDIA AND ORS.

Appearance:

Mr. Subash Agarwal, Adv.

. . .for the appellant.

Mr.Om Narayan Rai, Adv.

Mr.Amit Sharma, Adv.

...for the respondent.

BEFORE:

The Hon'ble T.S. SIVAGNANAM, ACTING CHIEF JUSTICE

-And-

The Hon'ble JUSTICE HIRANMAY BHATTACHARYYA

Date : 1st May, 2023.

The Court : We have heard Mr. Subash Agarwal, learned counsel appearing for the appellant and Mr. Om Narayan Rai, learned counsel assisted by Mr. Amit Sharma, learned advocate appearing for the respondent/revenue.

This is an application for condonation of delay. There is a delay of 118 days. We have perused the affidavit filed in support of the condonation delay application and we find that sufficient cause has been shown for not preferring the appeal within the period of limitation.

Accordingly, the application for condonation of delay (GA/1/2023) stands allowed.

This intra-court appeal by the appellant/writ petitioner is directed against the order dated 21st November, 2022 in WPO No.2506 of 2022. By the said order the learned Writ Court while entertaining the writ petition on the ground that the interpretation of the relevant provisions of Section 149 of the Income Tax Act, 1961 (for brevity 'The Act') is required to be gone into and directed affidavit-in-opposition to be filed by the revenue. However, interim order has not been granted. In our view, if reassessment proceedings are commenced and concluded, the challenge made in the writ petition to the order passed under Section 148A(d) of the Act dated 26th July, 2022 will become infructuous. To be noted that the appellant has no other forum to question the correctness of the order passed under Section 148A(d) of the Act. Therefore, the reassessment proceedings should necessarily await the decision in the writ petition.

For these reasons, there will be an order directing that all further proceedings pursuant to the order passed under Section

148A(d) of the Act dated 26th July, 2022 relating to the assessment year 2016-17 including the notice issued under Section 148 and 142(1) shall remain stayed till the disposal of the writ petition. It is seen from the impugned order that the matter was directed to be listed in the in the Monthly List of January, 2023 with a direction to the revenue to file their affidavit-in-opposition. Till date, affidavit has not been filed. Hence, we direct the revenue to file their affidavit-in-opposition within four weeks from date; reply, if any, shall be filed within two weeks thereafter. Let the matter appear before the appropriate Bench on 12th June, 2023.

With the above observations, the appeal [APOT/116/2023] stands disposed of.

Consequently, the application for stay [GA/2/2023] stands closed.

(T.S. SIVAGNANAM)
ACTING CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)

S.Das/