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IN THE HIGH COURT AT CALCUTTA
SPECIAL JURISDICTION[INCOME TAX]
ORIGINAL SIDE

RVWO/19/2023
IA NO. GA/1/2023, GA/2/2023
PRAKASHO DEVI SARIA
Vs.
PRINCIPAL COMMISSIONER OF INCOME TAX, SILIGURI

BEFORE :
THE HON'BLE THE CHIEF JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
Date : 17th May, 2023

Appearance :
Mr. Dhiraj Lakhotia, Adv.
Ms. Radhika Agarwal, Adv.
Ms. Madhushree Dutta, Adv.
..for petitioner/ revisionist
Mr. Soumen Bhattacharjee, Adv.
...for respondent

The Court : - Heard learned Counsel on either side.

There is a delay of 283 days in filing this review application. Upon perusal of the averments set out in the application for condonation of delay, we find sufficient cause has been shown for not preferring the review application within the period of limitation. Hence, the delay in filing the review application is condoned.

This review application has been filed to review the judgement and order dated 14.06.2022 in ITAT/138/2021. The said appeal filed by the revenue along with the batch of cases were heard on several dates and by a common judgement and order dated 14.06.2022 appeal filed by the revenue was allowed and substantial questions of law were answered in favour of the revenue. By this review application, the assessee seeks for recalling of the said order on the ground that the order passed by the Tribunal has been implemented and refund order dated 17.5.2019 was passed much prior to the department filing the appeal before this Court. As rightly pointed out by the learned standing Counsel for the revenue, this fact was not brought to the notice of this Court when the appeals were heard though the assessee was served and was represented by Counsel. It appears that the Counsel presently filed the review application was not appearing for the assessee when the appeals were heard. Therefore, on the said ground we cannot entertain a review application. That too to review a common judgment wherein the substantial questions of law were answered in favour of the revenue. However, considering the peculiar facts and circumstances and that the department has already implemented the order of the Tribunal and refund was effected to the assessee, we find that the said amount which has already been refunded to the assessee, should not be recovered by the department on account of the judgement dated 14.06.2022.

With the above clarification, the review application stands disposed of.

Affidavit-of-service is kept on record.

(T.S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)

pkd/GH.