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

ITAT/169/2023
IA NO: GA/1/2023, GA/2/2023
PRINCIPAL COMMISSIONER OF INCOME TAX - 1,KOLKATA
VS
M/S ANUP ENCLAVE PVT. LIMITED

BEFORE :
THE HON'BLE THE CHIEF JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
Date : 11th August, 2023

Appearance :
Ms. Smita Das De, Adv.
Mr. Soumen Bhattacharjee, Adv.
...for appellant
Mr. Abhratosh Majumder, Sr. Adv.
Mrs. Swapna Das, Adv.
Mr. Siddhertha Das, Adv.
....for respondent

The Court : - This appeal has been preferred by the revenue challenging the order passed by the Income Tax Appellate Tribunal "B" Bench, Kolkata in ITA No. 491/Kol/2018 for the assessment year 2014-15.

There is a delay of 1309 days in filing the appeal. The impugned order was passed by the Tribunal on 7.8.2019 and was received by the department on 18.08.2019. The appeal ought to have been filed not later than 13.12.2019 and if it had been filed it would have been within the period of limitation. However, the appeal was filed before this Court on 17th July, 2023 and in the process a delay of 1309 days has been occurred.

The explanation sought to be given by the department by referring to the Covid 19 Pandemic and the order passed by the Hon'ble Supreme Court. However, it is to be seen that the period of limitation for filing the appeal on 13.12.2019, much prior to the lockdown. Therefore, the question of relying upon the decision of Hon'ble Supreme Court and trying to take advantage of the same would not arise.

At the request of the learned Advocates for the parties the Court has also examined the findings recorded by the learned Tribunal on the merits of the matter and we find that the learned Tribunal has done reverification of facts, which was done by the Commissioner of Income Tax (Appeals) to examine the correctness of the decision taken. Thus, in this appeal Court is required to examine as to whether any substantial questions of law arise for consideration and there cannot be any review of the facts to take a decision.

Thus for the reasons aforesaid, this Court is not inclined to condone the delay in filing the appeal. Accordingly, the application is dismissed and the appeal stands rejected.

(T.S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)

Pkd/GH.