OD 2-5

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

ITAT 194 OF 2023
IA NO: GA/1/2023, GA/2/2023
PRINCIPAL COMMISSIONER OF INCOME TAX 1, KOLKATA
-Versus-
M/S. ITC INFOTECH INDIA LTD.

ITAT 195 OF 2023
IA NO: GA/1/2023, GA/2/2023
PRINCIPAL COMMISSIONER OF INCOME TAX 1, KOLKATA
-Versus-
M/S. ITC INFOTECH INDIA LTD.

ITAT 196 OF 2023
IA NO: GA/1/2023, GA/2/2023
PRINCIPAL COMMISSIONER OF INCOME TAX 1, KOLKATA
-Versus-
M/S. ITC INFOTECH INDIA LTD.

ITAT 197 OF 2023
IA NO: GA/1/2023, GA/2/2023
PRINCIPAL COMMISSIONER OF INCOME TAX 1, KOLKATA
-Versus-
M/S. ITC INFOTECH INDIA LTD.

BEFORE:
The Hon'ble T.S. SIVAGNANAM, CHIEF JUSTICE
-And-
The Hon'ble JUSTICE HIRANMAY BHATTACHARYYA
Date : 4th October, 2023

Appearance :
Mr. Vipul Kundalia, Adv.
Mr. Prithu Dudhoria, Adv.

Mr. Tilak Mitra, Adv.
..for the petitioner

Mr. J.P. Khaitan, Sr. Adv.
Ms. Neelanjana Banerjee Pal, Adv.
… for the respondent assessee

ITAT 194 OF 2023

The Court : There is a delay of 1152 days in filing the appeal by the revenue. The revenue has challenged the common order passed by the Income Tax Appellate Tribunal "C" Bench, Kolkata in ITA No. 2075/Kol/2017 dated 31^{st} January, 2020 for the assessment years 2010-11 to 2013-14.

The certified copy of the order passed by the Learned Tribunal dated 31^{st} January, 2020 was received in the office of the appellant on 13^{th} February, 2020. Extending the benefit of the order passed by the Hon'ble Supreme Court extending the period of limitation for filing the appeals under various statutes in the light of the Covid-19 pandemic, if the appeal had been preferred by the appellant department on or before 29^{th} May, 2022, it would be deemed that the appeal was within time. However, the appeal was filed before this Court only on 8^{th} August, 2023. In order to satisfy ourselves as to whether the appellant department had valid reasons for not preferring the appeal on or before 29^{th} May, 2022, we have perused the condone delay petition and taken note of the averments in paragraph

31 in particular in which it has been stated that the department of the Ministry of Law and Justice had faced certain issues on account of inundation and collapse of the roof of the building, as a result of which files could not be traced. The condone delay petition does not give any specific dates as to when the inundation took place etc. In any event, the appellate department had sufficient time to file the appeal in the light of the order passed by the Hon'ble Supreme Court and had the appeals been filed on or before 29th May, 2022, the matter would have been considered and the technical delay in filing the appeal could have been condoned. However, even after the said date, that is, from 30th May, 2022, no effective steps appears to have been taken to prefer the appeal, which was ultimately filed on 8th August, 2023.

Thus, in the absence of any reasonable explanation or in other words, in the absence of sufficient cause being shown for not preferring the appeal within the period of limitation and also taking note of the fact that the delay is enormous and inordinate, we are not convinced to exercise discretion in favour of the appellant department. Consequently, the application for condonation of delay is dismissed and the appeal stands rejected. For the same reasons the applications for condonation of delay in ITAT 195/2023, 196/2023, 197/2023 are dismissed and appeals stand rejected.

The substantial questions of law suggested by the revenue in these appeals are left open.

(T.S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)

SN/GH.
AR(CR)