OD–8

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

ITAT/140/2022
IA No: GA/1/2022, GA/2/2022
PRINCIPAL COMMISSIONER OF INCOME TAX, CENTRAL-1, KOLKATA
VS.
M/S. KAKRANIA PROPERTIES PRIVATE LIMITED

BEFORE :

THE HON'BLE JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
Date : 9th January, 2023

Appearance :
Mr. Prithu Dudhoria, Adv.
....for appellant

Mr. Pratyush Jhunjhunwalla, Adv.
Mr. Piyush Jain, Adv.
...for respondent

The Court : We have heard Mr. Prithu Dudhoria, learned standing counsel appearing for the appellant and Mr. Pratyush Jhunjhunwalla, learned advocate for the respondent.

There is a delay of 979 days in filing the appeal. We have perused the affidavit filed in support of the condone delay petition and we find that there is absolutely no explanation given for the inordinate delay in filing the appeal. The certified copy of the order passed by the Tribunal was received by the department on 12th July, 2019 and the last date for filing the appeal within the period of limitation expired on 9th November, 2019 and the decision to file appeal was taken much after the expiry of the period of limitation, even thereafter the appeal was filed on 15th July, 2022. Thus, the appellant department cannot take advantage of the order passed by the Hon'ble Supreme Court as the delay after the last day on which the appeal could have been filed and the date on which lockdown was declared and the delay from 1st March, 2022 till the date of filing, that is, 15th July, 2022 has not been explained. Thus, we are not convinced to exercise any discretion in this matter.

For such reason, the application being IA No.GA/1/2022 is dismissed. Consequently, the appeal stands rejected. The stay application being IA No.GA/2/2022 is also dismissed.

The substantial questions of law are left open.

(T.S. SIVAGNANAM, J.)

(HIRANMAY BHATTACHARYYA, J.)

S.Pal/SN.