ORDER OD – 5

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

ITAT/188/2022
IA NO: GA/1/2022
GA/2/2022

PRINCIPAL COMMISSIONER OF INCOME TAX – 5, KOLKATA
VERSUS
SHRI MANOJ KUMAR DHUPELIA

BEFORE:

The Hon'ble Justice SURYA PRAKASH KESARWANI
The Hon'ble Justice RAJARSHI BHARADWAJ

Date : 4th December 2023.

Appearance:

Mr. Tilak Mitra, Advocate
… for appellant.

Ms. Debashri Mukherjee, Advocate
… for respondent.

Order on delay condonation application [IA GA No.1 of 2022]

1. Heard learned senior standing counsel for the Income Tax Department / appellant as applicant and learned counsel for the respondent/assessee on delay condonation application being IA GA No.1 of 2022.

2. This appeal has been filed beyond limitation by 594 days with delay condonation application. As per the aforesaid delay condonation application, the impugned order is dated 15.06.2020 which was received

on 09.09.2020 and the appeal was filed on 24.08.2022 i.e. beyond limitation by 594 days.

3. Apart from other explanations, the appellant/applicant has offered explanation in paragraph 10 of the application that the period from 15.03.2020 to 28.02.2022 is liable to be condoned in view of the order of Hon'ble Supreme Court in Suo Moto Writ Petition (C) No.3 of 2020 in Re: cognizance for extension of limitation with miscellaneous Application No.29 of 2022 in Miscellaneous Application No.665 of 2021 in Suo Moto Writ Petition (C) No.3 of 2020. Thus, according to the appellant/applicant, the period from 15.03.2020 to 28.02.2022 is liable to be excluded for the purposes of limitation. For the rest of the period, the appellant/applicant has offered explanation in paragraph 13 of the application as under:-

> "13. The soft copies of appeal documents drafted by the Learned Advocate and forwarded by the Jr. Central Govt. Advocate, Ministry of Law and Justice were forwarded to the Assessing officer on 09.02.2022 for vetting and corrections and submitting the same through the office of the Range Head to the office of Pr. Commissioner of Income Tax-5, Kolkata. The vetted documents were received in the office of the Pr. Commissioner of Income Tax-5, Kolkata on 18.08.2022."

4. No explanation has been offered by the appellant/applicant for delay for the period from 09.02.2022 to 18.08.2022 except in paragraph 13 afore-

quoted. Thus, no explanation for delay in filing the appeal for the period from 28.02.2022 to 18.08.2022 has been offered by the appellant/applicant.

5. Under such circumstances, in the absence of any explanation for delay for about 6 months, the delay cannot be condoned. Consequently, the delay condonation application being IA GA No.1 of 2022 deserves to be rejected and is hereby rejected.

<u>Order on Appeal</u>

6. In view of rejection of the delay condonation application being IA GA No.1 of 2022, the appeal also stands dismissed.

7. All pending applications stand disposed of.

(SURYA PRAKASH KESARWANI, J.)

(RAJARSHI BHARADWAJ, J.)

S. Kumar