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ITAT/189/2022
IA No.GA/1/2022
GA/2/2022

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

PRINCIPAL COMMISSIONER OF INCOME TAX-5, KOLKATA

-Versus-

SMT. UMA PARASRAMKA

BEFORE :
THE HON'BLE JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
Date : 6th February, 2023

Appearance :
Mr. Tilak Mitra, Adv.
...for the appellant.

Mr. Avratosh Majumdar, Sr. Adv.
Mr. Somya Kejriwal, Adv.
Mr. Indranil Banerjee, Adv.
...for the respondent.

The Court : We have heard Mr. Tilak Mitra, learned standing counsel for the appellant/revenue and Mr. Avtatosh Majumdar, learned senior counsel assisted by Mr. Soumya Kejriwal and Mr. Indranil Banerjee, learned Advocates for the respondent/assessee and perused the affidavit filed in support of the application for condonation of delay as well as the affidavit-in-opposition of the respondent/assessee and the affidavit-in-reply filed by the revenue.

There is a delay of 1223 days in filing the appeal. The order impugned in the appeal was passed by the learned Tribunal on 16th November, 2018 and the certified copy was received by the appellant/department on 20th December, 2018 and the appeal was presented before this Court on 24th August, 2022.

The delay in filing the appeal from 20th November, 2018 has not been explained. The averments are self serving and devoid of any substance. That apart, we find that the decision to file an appeal was taken by the department much after the decision of this Court in the case of *Principal Commissioner of Income Tax-5 v. Swati Bajaj* reported in ***2022 SCC Online Cal 1572***. The appellant/department having not been diligent cannot now take advantage of the decision of *Swati Bajaj* and state that the delay of 1223 days has to be condoned. The law of limitation will not assist the person who is not diligent of his right. That apart, there is no separate law of limitation for the Government nor any latitude can be shown to the Government as the Government is as good as any other litigant and said to be the largest litigant.

Thus, for the above reasons, we are not persuaded to exercise in favour of the appellant/revenue. Consequently, the application for condonation of delay (IA No.GA/1/2022) is dismissed.

Consequently, the appeal filed by the revenue (ITAT/189/2022) stands rejected and the application for stay (IA No.GA/2/2022) also stands closed.

(T.S. SIVAGNANAM, J.)

(HIRANMAY BHATTACHARYYA, J.)

A/s./S.Das