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

ITAT/233/2023
IA NO: GA/1/2023, GA/2/2023
PRINCIPAL COMMISSIONER OF INCOME TAX 1,KOLKATA
VS
NABA DIGANTA WATER MANAGEMENT LIMITED

BEFORE :
THE HON'BLE THE CHIEF JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
Date : 13th December, 2023

Appearance :
Mr. Tilak Mitra, Adv.
...for appellant
Mr. Pratyush Jhunjhunwala, Adv.
Mr. Mrigank Kejriwal, Adv.
...for respondent

The Court : - Heard learned Counsel on either side.

There is a delay of 1368 days in filing the appeal. The order impugned which was passed in the present appeal dated 9th August, 2019 and the certified copy of the order was received by the income tax department on 2.9.2019 and the appeal has been filed before this Court on 29.9.2023 and there is a delay of 1368 days.

As rightly submitted by the learned Advocate appearing for the respondent assessee the condone delay application does not give any satisfactory explanation for the inordinate delay. The appellant department cannot take advantage of the order passed by the Hon'ble Supreme Court extending the period of limitation on account of Covid 19 Pandemic since the period of limitation for filing the appeal within the time expired much prior to the date on which the benefit of the order passed by the Hon'ble Supreme Court was given. Furthermore, we find that the Tribunal has affirmed the order passed by the Commissioner of Income Tax, Appeals I, Calcutta (CITA) after re-appreciating the factual position more particularly the terms and conditions of the agreement entered into between the respondent/assessee and a State Government undertaking. The learned Advocate appearing for the respondent/assessee has placed reliance on the decision in the case of Commissioner of Income Tax Vs. Tamil Nadu Road Development Company Limited , 2021 436 ITR 323 (Mad). We note that the factual position in the case on hand is much better than the factual position which was taken note of in the decision referred to above. Thus we are of the view that the inordinate delay in filing the appeal cannot be condoned.

Accordingly, the application is dismissed and consequently the appeal stands rejected and the substantial questions of law which have been raised are left open.

(T.S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)

Pkd/GH.