OD-2

ITAT/255/2022
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
-VS-
M/S. NEELESH CHOUDHURY HUF

BEFORE:
The Hon'ble JUSTICE I. P. MUKERJI

The Hon'ble JUSTICE BISWAROOP CHOWDHURY
Date : 23rd February, 2023.

Appearance:
Mr. Soumen Bhattacharya, Adv.

Mr. Abhrotosh Majumdar, Sr. Adv.
Mr. Pranit Bag, Adv.
Ms. Anuradha Poddar, Adv.

The Court : This appeal (ITAT/255/2022) and the connected applications (IA NO.GA/1/2022 and GA/2/2022) have been specially assigned to this court.

On 14th June, 2022, a division bench of this court delivered its judgment in IA No. GA/2/2022 in ITAT/6/2022 (Principal Commissioner of Income Tax Five, Kolkata vs. Swati Bajaj).

It appears from the records that after rendition of this judgment and order, the Income Tax department preferred appeals from the order of the tribunal disposing of a batch of cases before it. In all the cases, similar issues were involved.

On appeal to this court, this court refused to condone the delay of more than 1000 days in each appeal.

By identical orders the appeals were dismissed.

We set out one of such orders in ITAT/275/2022, IA NO:GA/1/2022, GA/2/2022 [Principal Commissioner of Income Tax-13, Kolkata vs. Manish Jain (HUF)] passed on 30th January, 2023 :-

> "This appeal by the revenue have been filed beyond the period of limitation.

There is a delay of 1085 days in filing the appeal.

We have heard Mr. Samarjit Roychowdhury, learned standing Counsel along with Mr. Soumen Bhattacharjee, learned counsel for the appellant and Mr. Subhas Agarwal, learned Counsel on behalf of the respondent.

On perusal of the affidavits filed in support of the condone delay petition we find that sufficient cause has not been shown for not preferring the appeals within the period of limitation. Further we note that decision pursue this appeal was taken much after the decision of this Court in *PCIT-5 SWATI BAJAJ 2022 SCC ONLINE CAL 1572*. Thus we are not persuaded to exercise any discretion in favour of the appellant/revenue.

Consequently, the application is dismissed and the appeals stand rejected."

Our hands are tied. We cannot differ from the ruling of the division bench refusing to condone the delay inasmuch as the grounds made out for its condonation are also similar to the other matters. For the self-same reasons as advanced by the division bench in its said order dated 30th January, 2023, we dismiss the application for condonation of delay (GA/1/2022). The appeal (ITAT 255 of 2022) and the connected application (GA/2/2022) are also dismissed.

(I. P. MUKERJI, J.)

(BISWAROOP CHOWDHURY, J.)

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