OD–4

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

ITAT/262/2022
IA NO: GA/1/2022, GA/2/2022
PRINCIPAL COMMISSIONER OF INCOME TAX CENTRAL 1, KOLKATA
VS.
M/s. DAULAT FINLEASE PVT. LTD.

BEFORE :
THE HON'BLE JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
Date : 19th January, 2023

Appearance :
Mr. Amit Sharma, Adv.
...for appellant
Ms. Sapna Das , Adv.
Mr. S. Das, Adv.
...for respondent

The Court : - Heard learned advocates on either sides.

The present appeal has been filed with a delay of 999 days and the learned senior standing counsel for the appellant would seriously contested that the delay has been properly explained in the affidavit filed in support of the application.

We have heard learned counsel for the respondent on the above submission.

On perusal of the relevant dates we find that the order was passed by the learned Tribunal on 18.10.2019 which was received by the department on 5.11.2019 and the appeal ought to have been filed on or before 4.3.2020 but the same was filed only on 28.11.2022. On perusal of the other averments we find that the Principal Commissioner of Income Tax, Central I, Kolkata by communication dated 7.11.2019 directed the assessing officer to submit a scrutiny report. However, the assessing officer did not comply with the direction after about more than a month. The PCIT sent a reminder letter to the assessing officer on 9.1.2020 and thereafter after expiry of a period of one month on 11.2.2020 only the assessing officer submitted a scrutiny report to the Additional Commissioner, Range-2 [C], Kolkata. Thereafter, proceedings were initiated and the other documents show that the papers were travelling from one department to another and, ultimately, the appeal had been filed only on 28.11.2022. The list of dates and events will clearly show that department was not diligent in prosecuting the matter and they have taken their own time to file the appeal which would be construed as sufficient cause for the delay in filing the appeal. Hence, we are not inclined to exercise any discretion in favour of the appellant.

Accordingly, the application is dismissed and, consequently, the appeal stands rejected and the substantial questions of law suggested are left open.

(T.S. SIVAGNANAM, J.)

(HIRANMAY BHATTACHARYYA, J.)

Pkd/GH.