OD–3

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

ITAT/263/2022
IA NO. GA/1/2022, GA/2/2022

PRINCIPAL COMMISSIONER OF INCOME TAX CENTRAL - 1, KOLKATA
VS.
M/s. GUJARAT NRE COKE LIMITED

BEFORE :
THE HON'BLE JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
Date : 16th January, 2023

Appearance :
Ms. Smita Das De, Adv.
Mr. Prithu Dudhoria, Adv.
....for the appellant.

Ms Shalini Basu, Adv.
... for the respondent.

The Court : We have heard respective counsel for the either side.

It appears that there is a delay of 944 days in filing the appeal. The certified copy of the order passed by the learned Tribunal was received by the department on 18.12.2019 but the appeal was filed before this Court only on 28.11.2022. On perusal of the affidavit filed in support of the condone delay petition, we find that though the Principal Commissioner of Income Tax (3), Kolkata approved the filing of appeal as early as on 21.2.2020, the appeal was filed on 28.11.2022. One of the reasons given in the affidavit filed in support of the condone delay petition that there was a restructuring in the department and the case was transferred to the Principal Commissioner of Income Tax (1), Kolkata on 20.10.2020 and it is thereafter the action was taken. Admittedly, the period of limitation for filing the appeal expired much prior to the outbreak of Covid and the imposition of lockdown. In any event, the restructuring of the department can hardly be a reason in not preferring the appeal within the period especially when the approval for filing an appeal given by the PCIT (3) much prior to the date of restructuring. Thus, we find that sufficient cause has not been shown for condonation of the inordinate delay for 944 days.

For the above reason, the condone delay petition is dismissed. Consequently, the appeal stands rejected. The stay application also stands dismissed.

Substantial questions of law as suggested by the revenue are left open.

(T.S. SIVAGNANAM, J.)

(HIRANMAY BHATTACHARYYA, J.)

s.pal/GH.