Form No. J.(2)
Item No.4

IN THE HIGH COURT OF JUDICATURE AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

HEARD ON: 06.08.2024

DELIVERED ON: 06.08.2024

CORAM:

THE HON'BLE MR. CHIEF JUSTICE T.S. SIVAGNANAM
AND
THE HON'BLE MR. JUSTICE HIRANMAY BHATTACHARYYA

M.A.T. 385 2024
With
I.A. No. CAN 1 of 2024
+
I.A. No. CAN 2 of 2024

Income Tax Officer, Ward No.44 (1), Kolkata
Versus
Pawan Kumar Bansal, HUF & Ors.

Appearance:-
Mr. Soumen Bhattacharjee

.........for the Appellant

Mr. Avra Mazumder
Mr. Giridhar Dhelia
Ms. Alisha Das
Mr. Samrat Das

......for the Respondents

JUDGMENT

(Judgment of the Court was delivered by T.S. SIVAGNANAM, C.J.)

In Re.:- I.A.No. CAN 1 of 2024

1. We have heard the learned advocates appearing for the parties.

2. There is delay of 217 days in filing the appeal. We have perused the affidavit filed in support of the petition and we find that sufficient cause has been shown for not being able to prefer the appeal within the period of limitation.
3. I.A.No. CAN 1 of 2024 is allowed and the delay in filing the appeal is condoned.

In Re.: M.A.T. 385 2024

1. We have heard the learned advocates for the parties.
2. It is not in dispute that the issue involved in this appeal is squarely covered by the decision in the case of Income Tax Officer, Ward-47 (1), ***Kolkata v. Vinay Kumar Singh & Ors.*** in ***APOT 451 of 2023*** dated 19.02.2024. The said judgment is quoted hereinbelow:

> *"We have heard Mr. Om Narain Rai, learned standing Counsel appearing for the appellant and Mr. Om Prakash Prosad, learned Counsel for the respondents.*
>
> *There is a delay of 193 days in filing the appeal. Since the explanation offered is satisfactory, delay in filing the appeal is condoned. The application for condonation of delay is allowed.*
>
> *This intra-court appeal by the Income tax department is directed against the order dated 3rd May, 2023, passed in WPO No.969 of 2023, by which the order passed under Section 148A(d) of the Income Tax Act, 1961 (the Act), dated 29th July, 2022, relating to the assessment year 2017- 18, was challenged on the ground of non-compliance of the formalities of taking approval of the specified authority mentioned in Section 151(ii) of the Act.*

The revenue cannot dispute the fact that identical issue was decided against the Department in the case of Siemens Financial Services (P) Ltd. vs. Deputy Commissioner of Income-tax, (2023) 155 taxmann.com 159 (Bombay). This Court also had an occasion to consider similar issue in (2024) 159 taxmann.com 5 (Bombay). The decision is Siemens Financial Services (P) Ltd. (supra) has also been followed in the case of (2024) 159 taxmann.com 5 (Bombay).

Thus, following the above decisions, the appeal filed by the revenue is dismissed.

The connected application is also dismissed."

3. Following the above decision, the appeal filed by the Revenue Department is dismissed along with the connected application (IA No.CAN 2 of 2024).
4. No costs.
5. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(T.S. SIVAGNANAM)
CHIEF JUSTICE

I agree.

(HIRANMAY BHATTACHARYYA, J.)

Pallab/Krishnendu AR(Ct.)