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

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

HEARD ON: 02.07.2024
DELIVERED ON: 02.07.2024

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

M.A.T. 388 of 2024
With
IA No. CAN 1 of 2024
Surajit Banerjee
Versus
Superintendent of Central Tax, Range – 1, Durgapur – 1, Division & Ors.

Appearance:-
Mr. Sumit Ghosh
Mr. Anupam Kumar Dey
Mr. Souradeep Majumder

...For the Appellant

Mr. Kaushik Dey
Ms. Aishwarya Rajyashree
Mr. Chandra Gupta Kamal

.....For the Respondents

<u>JUDGMENT</u>

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

1. This intra-Court appeal by the writ petitioner is directed against an order in W.P.A. 478 of 2024 dated 25th January, 2024, by which the prayer made by the appellant to furnish a copy of the order in original to enable him to file a statutory appeal was rejected on the ground that the appellant has already been served with the order in original and did not take any step to prefer the appeal within the period of limitation.

2. The learned advocate for the appellant submitted that it is true that the order in original has been served but it was received by some employee of the appellant and was not placed before the appellant and therefore, the appellant could not prefer the statutory appeal within the period of limitation. The appellant is

ready and willing to comply with the pre-deposit condition and prays for indulgence before this Court to enable him to file the appeal with a direction to the Department to serve a copy of the order in original.

3. Considering the peculiar facts and circumstances of the case and the appellant having accepted the mistake, we direct the respondent/department to serve a copy of the order in original dated 29th March, 2022 within a period of two weeks from the date of receipt of the server copy of this order.
4. On receipt of the said order, the appellant is granted 30 days time to prefer a statutory appeal before the appellate authority and if the appeal is preferred and the pre-deposit condition is complied with, the appellate authority shall entertain the appeal without rejecting the same on the ground of limitation and hear and dispose of the appeal on merits and in accordance with law.
5. This order shall not be treated as a precedent and has been passed considering the peculiar facts and circumstances of the case and more particularly because the assessee is an individual.
6. With the above observations/directions, appeal and the connected application (IA No. CAN 1 of 2024) are disposed of.
7. No costs.
8. 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.)