

**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. 617 of 2021
With
I.A. No. CAN 1 of 2021
With
I.A. No. CAN 2 of 2021
Principal Commissioner of Service Tax-1
Commissionerate, Kolkata
Vs.**

SREI Infrastructure Finance Limited & Ors.

Appearance:-

Mr. Vipul Kundalia

Mr. Tapan Bhanja

.....for the appellant

Mr. Abhra Majumdar

Mr. Paritosh Sinha

Mr. Amitava Mitra

Ms. Sonia Nandy

.....for the respondents

JUDGMENT

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

1. We have heard Mr. Vipul Kundalia, learned senior Standing counsel appearing for the appellant/department and Mr. Abhra Majumdar, learned advocate appearing for the respondents.

2. There is delay of 379 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. I.A. No. CAN 1 of 2021 is allowed and the delay in filing the appeal is condoned.
3. This intra-Court appeal by the department is directed against the order passed by the learned Single Bench in the writ petition viz., W.P.A. 19177(W) of 2017 allowing the writ petition and quashing the show-cause notice.
4. As of now, the appellant/department cannot proceed with this appeal in the light of the order passed by the National Company Law Tribunal, Kolkata Bench in CP (IB) No. 294/KB of 2021 by which the resolution plan has been approved.
5. Therefore, nothing further remains to be adjudicated in this appeal and the same is dismissed along with the connected application.
6. The order passed by the National Company Law Tribunal, Kolkata Bench in CP (IB) No. 294/KB of 2021 is kept on record.
7. Since we have dismissed the appeal on the technical ground, the question of law, which was dealt with by the learned Single Bench is kept open.
8. No costs.

(T.S. SIVAGNANAM)
CHIEF JUSTICE

I agree.

(HIRANMAY BHATTACHARYYA, J.)