16.01.2024
Item No.06
RP/AN
Ct. No.1

MAT 1471 of 2023
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IA No.CAN 1 of 2023
CAN 2 of 2023

Income Tax Officer, Ward-40(1), Kolkata
Vs.
Sudha Devi Prahaladka

Mr. P. Dudheria
.....for the Appellant
Mr. Rajesh Kumar Mishra
Mr. Sutritha Das
.....for the Respondent

1. There is a delay of 304 days in filing the appeal. We have perused the affidavit filed in support of the application for condonation of delay. We find that sufficient cause has been shown for not preferring the appeal within the period of limitation. Hence, the application for condonation of delay is allowed and delay is condoned.
2. We have heard the learned advocates for the parties.
3. This intra-Court appeal preferred by the Income Tax Department is directed against the 2nd September, 2022 passed in WPA 19543 of 2022. The respondent/writ petitioner had challenged the notice dated 29th May, 2022 issued under Section 148 of the Income Tax Act, 1961. The learned Single Bench, on going through the factual details, has recorded a finding that the notice issued is clearly

barred by the laws of limitation in view of the first proviso to Section 149(1)(b) of the Income Tax Act, 1961. Before us the appellant department has not been able to controvert the said factual aspect. Thus, we find no grounds to interfere with the order passed by the learned Single Bench. Hence, the appeal and the connected application fail and are dismissed.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)