Form No. J.(2)
Item No.24

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

HEARD ON: 02.04.2024
DELIVERED ON: 02.04.2024

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

M.A.T. 1890 of 2023
With
I.A. No. CAN 1 of 2023
With
CAN 2 of 2023

M/s. Cuir Maison & Ors.
Vs.
The Deputy Commissioner of State Tax, Ballygunge Charge & Ors.

Appearance:-
Mr. Sandip Choraria
Mr. Rishav Manna

.........for the Appellants

Mr. T. M. Siddiqui
Mr. Tanoy Chakraborty
Mr. Saptak Sanyal

.........for the State

JUDGMENT

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

In Re. I.A. No. CAN 1 of 2023

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

2. There is delay of 15 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 2023 is allowed and the delay in filing the appeal is condoned.

In Re. M.A.T. 1890 of 2023

4. This intra-Court appeal by the writ petitioner is directed against an order dated 25th July, 2023 by which W.P.A. 16759 of 2023 was dismissed. The said writ petition was filed by the appellants challenging the order passed by the Joint Commissioner of Revenue, Appellate Authority, Kolkata South Circle dated 15th March, 2023 dismissing the appeal petition filed by the appellants on the ground of limitation.

5. Mr. Sandip Choraria, learned advocate appearing for the appellants submitted that a Notification has been issued by the Government bearing Notification No.53 of 2023 dated 2nd November, 2023, which permits appeals, which were dismissed up to 31st March, 2023 on the ground of limitation to be heard and decided on merits.

6. Since the learned advocate appearing for the respondent/department does not have any specific instruction in this regard, the following order is passed to meet the ends of justice.

7. The appellants are directed to represent a fresh appeal petition manually before the appellate authority viz. the Joint Commissioner of Revenue, Appellate Authority, Kolkata South Circle along with the copy of the Notification No.53 of 2023 dated 2nd November, 2023 and a copy of this judgement and the appellate authority shall examine the factual position, ascertain as to whether the appellants are entitled to the benefit of Notification No.53 of 2023 and if the appellants are entitled to, the appeal shall be restored and heard and decided on merits and in accordance with

law after affording an opportunity of personal hearing to the authorised representative of the appellants.

8. In the event, the appellate authority is of the opinion that for some valid reasons, the Notification No.53 of 2023 is not applicable to the appellants, then a speaking order to the said effect should be passed and communicated to the appellants by Speed Post within two weeks from the date on which the appeal petition is represented manually in terms of the above direction.

9. Accordingly, the appeal along with the connected application (CAN 2 of 2023) stand disposed of.

10. No costs.

11. 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/KS AR(Ct.)