Form No. J.(2)
Item Nos. 2 & 3

IN THE HIGH COURT OF JUDICATURE AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE
HEARD ON: 27.02.2024

DELIVERED ON: 27.02.2024

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

THE HON'BLE MR. JUSTICE HIRANMAY BHATTACHARYYA

M.A.T. 1939 of 2023
With
IA No. CAN 1 of 2023
WITH
IA No. CAN 1 of 2023
M/S. Girdhar Fiscal Services Pvt. Ltd.
Vs.
The Principal Commissioner of Income Tax
(Central), Kolkata-2 & Ors.
with
M.A.T. 1941 of 2023
With
IA No. CAN 1 of 2023
WITH
IA No. CAN 1 of 2023

M/S. Golden Goenka Commerce Pvt. Ltd.
Vs.
The Principal Commissioner of Income Tax
Kolkata-1 & Ors.

Appearance:-

Mr. Avra Mazumdar
Ms. Alisha Das
Mr. Suman Bhowmik
Mr. Samrat Das
.........for the appellant

Mr. Prithu Dudhoria **.........for the respondents in MAT 1939 of 2023**

Ms. Smita Das De **..........for the respondents in MAT 1941 of 2023**

JUDGMENT

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

In Re: I.A. No. CAN 1 of 2023 in M.A.T. 1939 of 2023
&
I.A. No. CAN 1 of 2023 in M.A.T. 1941 of 2023

1. We have heard Mr. Avra Mazumdar, learned advocate appearing for the appellant and Mr. Prithu Dudhoria and Ms. Smita Das De, learned Government counsel appearing for the respondents.

2. There is delay of 35 days in filing the appeals. We have perused the affidavits filed in support of the petition and we find that sufficient cause has been shown for not being able to prefer the appeals within the period of limitation.

3. I.A. No. CAN 1 of 2023 in M.A.T. 1939 of 2023 and I.A. No. C.A.N. 1 of 2023 in M.A.T. 1941 of 2023 are allowed and the delay in filing the appeals is condoned.

In Re: M.A.T. 1939 of 2023
&
M.A.T. 1941 of 2023.

4. Since the subject matter involved in these appeals are identical, both the appeals are taken up for hearing together and are being decided by this common order, which will govern the fate of either of the two.

5. These intra-Court appeals have been filed against an order passed by the learned Single Bench refusing to entertain a challenge to an order passed under section 127 of the Income Tax Act, 1961.

6. The appellants had approached the Court earlier and filed writ petitions, which were disposed of by directing the authority to afford an opportunity of hearing to the assessees and pass fresh orders. This opportunity was afforded and certain reasons have been assigned by the Department for Centralising the Assessments at Lucknow.

7. We find that the reasons cannot be stated to be either arbitrary or unreasonable at this juncture as the facts have to be examined during the course of the assessment proceedings. Furthermore, the allegation is that the appellants being Girdhar Fiscal Services Group entity is alleged to have been providing accommodation entry/bogus unsecured loans to various entities by routing the unaccounted income through their bank accounts and also engaged in routing the unaccounted income. We also find that the authority, while passing orders under section 127 of the Income Tax Act, 1961 in M.A.T. 1941 of 2023 has dealt with as to why the copies of the seized documents cannot be supplied to the assessee at this juncture. We find the said reason to be fully justified.

8. Thus, the department is of the considered view that due to the complex nature of mutual transactions, the case has to be centralised for the purpose of clarity and coordinated inquiries.

9. Hence, the learned writ Court was fully justified in not granting any interim order and we find no ground to interfere with the said order and accordingly, the appeals fail and dismissed along with the connected applications.

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.)