02.07.2024
Item No.21
gd/ssd

MAT/1971/2023
IA NO: CAN/1/2024
INCOME TAX OFFICER
WARD NO.4(1),KOLKATA
VS
MODERN ENGINEERING AND
PROJECTS LIMITED AND ORS.

Mr. Soumen Bhattacharjee,
Ms. Doyel Dey
..for the Appellant.

Mr. Avra Majumder,
Ms. Alisha Das
..for the Respondents.

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

2. It is not in dispute that the issue involved in this appeal is squarely covered by the decision in the case of *Income Tax Officer, Ward-47(1), Kolkata v. Vinay Kumar Singh & Ors.* in *APOT 451 of 2023* dated 19.02.2024. The said judgment is quoted hereinbelow:

> "We have heard Mr. Om Narain Rai, learned standing Counsel appearing for the appellant and Mr. Om Prakash Prosad, learned Counsel for the respondents.
>
> There is a delay of 193 days in filing the appeal. Since the explanation offered is satisfactory, delay in filing the appeal is condoned. The application for condonation of delay is allowed.
>
> This intra-court appeal by the Income tax department is directed against the order dated 3rd May, 2023, passed in WPO No.969 of 2023, by which the order passed under Section 148A(d) of the Income Tax Act, 1961 (the Act), dated 29th July, 2022, relating to the assessment year 2017-

18, was challenged on the ground of non-compliance of the formalities of taking approval of the specified authority mentioned in Section 151(ii) of the Act.

The revenue cannot dispute the fact that identical issue was decided against the Department in the case of *Siemens Financial Services (P) Ltd. vs. Deputy Commissioner of Income-tax, (2023) 155 taxmann.com 159 (Bombay)*. This Court also had an occasion to consider similar issue in *(2024) 159 taxmann.com 5 (Bombay)*. The decision is *Siemens Financial Services (P) Ltd.* (supra) has also been followed in the case of *(2024) 159 taxmann.com 5 (Bombay)*.

Thus, following the above decisions, the appeal filed by the revenue is dismissed.

The connected application is also dismissed."

3. Following the above decision, the appeal filed by the Revenue Department is dismissed.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)