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IN THE HIGH COURT AT CALCUTTA
SPECIAL JURISDICTION (INCOME TAX)
ORIGINAL SIDE

ITAT/35/2024
IA NO: GA/1/2024, GA/2/2024
PRINCIPAL COMMISSIONER OF INCOME
TAX CENTRAL 2 KOLKATA
VS
HARSH VARDHAN NEOTIA

ITAT/43/2024
IA NO: GA/1/2024, GA/2/2024
PRINCIPAL COMMISSIONER OF INCOME
TAX CENTRAL 2 KOLKATA
VS
SMT MADHU NEOTIA

BEFORE :
THE HON'BLE THE CHIEF JUSTICE T.S. SIVAGNANAM
AND
THE HON'BLE JUSTICE SUPRATIM BHATTACHARYA
DATE : 7TH February, 2024.

Appearance :
Ms. Smita Das De, Adv.
(in ITAT/43/2024)
Mr. Tilak Mitra, Adv.
(in ITAT/35/2024)
..for appellant
Mr. Arun Kumar Upadhyay, Adv.
Mr. S.K. Singh, Adv.
Mr. Lokesh Singh, Adv.
…for respondent.

The Court :- We have heard learned Counsel on either side.

By consent of both the parties ITAT/43/2024 is taken up together along with this appeal (ITAT/35/2024).

These appeals have been filed by the revenue under Section 260A of the Income Tax Act, 1961 (the Act) challenging the common order passed by the Income Tax Appellate Tribunal "A" Bench (the Tribunal) dated 14.08.2022 in ITA No. 2143/Kol/2019 and ITA No. 2144/Kol/2019 for the assessment year

2006-07. The revenue has raised the following substantial question of law for consideration :

i) WHETHER the Learned Tribunal has erred in law and fact in holding that no addition could be made on other issues unless those other issues are connected to the issue on which reopening has been done ?

In ITAT No. 35 of 2024 there is a delay of 1038 days in filing the appeal and in ITAT No. 43 of 2024 there is a delay of 1044 days in filing the appeal. Though we are not fully convinced with the reasons assigned in the condone delay petition for not preferring the respective appeals within the period of limitation, since these appeals have been filed under Section 260A of the Income Tax Act, 1961 whereunder we are required to consider as to whether any question of law arose for consideration, we exercise discretion and condone the delay in filing the appeals.

Accordingly, the condone delay applications are allowed.

The question involved in this case is whether the reopening of the assessment was validly done in the case of the assessees. The learned Tribunal after examining the facts of the case took note of the decision of this Court in the case of *M/s. Infinity Infotech Parks Ltd.* and applied the legal principles laid down therein and dismissed the appeals filed by the revenue. We find that the law on the subject has been rightly taken note of by the learned Tribunal and the Tribunal was fully justified in rejecting the appeal filed by the revenue. Thus we find no ground to interfere with the order passed by the learned Tribunal.

Accordingly, the appeals are dismissed and the substantial question of law is answered against the revenue.

The affidavit of service filed is taken on record.

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(T.S. SIVAGNANAM)
CHIEF JUSTICE

(SUPRATIM BHATTACHARYA,J.)

pkd/GH.