OD–13

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

ITAT/57/2024
IA NO: GA/1/2024, GA/2/2024
PRINCIPAL COMMISSIONER OF INCOME TAX, ASANSOL
VS
MANINDRA MOHAN MAZUMDAR

BEFORE :
THE HON'BLE THE CHIEF JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
Date : 19th February, 2024.

Appearance :
Mr. Amit Sharma, Adv.
...for appellant
Mr. Saumya Kejriwal, Adv.
Ms. A. Rath, Adv.
Mr. Navin Mittal, Adv.
...for respondent

The Court :- There is a delay of 213 days in filing the appeal. We are satisfied with the explanation offered in the affidavit filed in support of the condone delay petition for not preferring the appeal within the period of limitation, the delay in filing the appeal is condoned. The application is allowed.

This appeal by the department of Income Tax filed under Section 260A of the Income Tax Act, 1961 is directed against the order dated 24.01.2023 passed by the Income Tax Appellate Tribunal, "SMC" Bench, Kolkata in I.T.A. No. 649/KOL/2022 for the assessment year 2013-14.

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

"i) Whether in the facts and circumstances of the case the Learned Income Tax Appellate Tribunal has committed substantial error in law in deleting the deemed rental income of Rs.72,000/- from residential flat at Ghaziabad on ground of non-connectivity of electricity and water supply in the fact and treating the property as non-habitable under Section 22 and 23 of the Act?"

After we have elaborately heard the learned Advocates for the parties and carefully perused the materials placed with the records, we find no question of law, much less substantial question of law arises for consideration as the matter is entirely factual.

The learned Tribunal has examined factual position and rendered a finding in favour of the assessee, which cannot be overcome in this appeal, where we are required to consider whether any substantial question of law arises for consideration. As none arises in the case on hand, there is no option except dismissing the appeal on the ground that no substantial question of law arises for consideration.

(T.S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)

pkd/GH.