OD-2

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

ITAT/69/2024
IA NO: GA/1/2024, GA/2/2024
PRINCIPAL COMMISSIONER OF
INCOME TAX 2, KOLKATA
VS
M/S LUXMI TOWNSHIP AND HOLDING
LTD
TILAK MITRA

BEFORE :
THE HON'BLE THE CHIEF JUSTICE T.S. SIVAGNANAM
AND
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
DATE : 15TH MARCH, 2024.

Appearance :
Mr. Tilak Mitra, Adv.
...for appellant
Mr. Soumitra Chowdhury, Adv.
Mr. Avra Mazumder, Adv.
Mr. Samrat Das, Adv.
..for respondents.

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

There is a delay of 1501 days in filing the appeal. The order passed by the learned Tribunal impugned in this appeal is dated 9.8.2019, certified copy of which was received by the department on 2.9.2019 but the appeal has been presented before this Court only on 9.2.2024. The affidavit filed in support of the condone delay application does not set out any acceptable reasons nor there is sufficient cause shown for the inordinate delay in filing the appeal. The learned Advocate appearing for the respondent/assessee also pointed out that the Tribunal has carefully considered the factual position and has clearly pointed out that in the assessment proceedings the assessing officer issued notice under Section 142(1) of the Act and details were called for and the assessee had furnished a detailed write up with regard to the nature of receivables and liquidated damages and the assessing officer has not drawn any adverse inference with regard to the said query while completing the assessment under Section 143(3)of the Act dated 21.12.2016. Therefore, it is submitted that the learned Tribunal was right in holding that the Principal Commissioner of Income Tax could not have exercised his jurisdiction under Section 263 of the Act. Thus, we find on the merits also the revenue does not have a case to sustain.

Thus, for the above reasons, the application for condonation of delay is dismissed.

Thus, the appeal stands rejected.

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(T.S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA,J.)

pkd/GH.