OD-12

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE

APOT/186/2024
IA NO: GA/1/2024, GA/2/2024

The Income Tax Officer Ward 9 1 Kolkata
VS
Specie Finance Pvt Ltd And Ors

BEFORE :
THE HON'BLE THE CHIEF JUSTICE T.S SIVAGNANAM
-A N D-
HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
DATE : 12th July, 2024.

Appearance :
Mr. Vipul Kundalia, Adv.
Mr. Soumen Bhattacharjee, Adv.
…for appellants.

Mr. Amit Agarwal, Adv.
…for respondents.

The Court :- We have heard learned Advocates for the parties. This is an intra-Court appeal filed by the revenue challenging the order passed by the learned Single Bench in WPO 974 of 2023 dated 4.5.2023 by which the writ petition challenging the order passed by the appellant under section 148A(d) of the Income Tax Act, 1961 dated 28.7.2022 relating to the assessment year 2016-17 was quashed on the ground that the specified authority has not granted approval.

There is a delay of 325 days in filing the appeal.

We have perused the explanation offered by the revenue and we are satisfied that sufficient cause has been shown for not preferring the appeal within the period of limitation.

Hence, the delay is condoned. GA/1/2024 is allowed.

So far as the merits of the matter is concerned, this Court has considered an identical issue in MAT 1971 of 2023 and by order dated 2.7.2024 the appeal filed by the department was dismissed.

The operative portion of the order reads as follows:

"2. It is now 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 148(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."

Following the above order, the appeal stands dismissed. Consequently, the application also stands dismissed.

.

(T.S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)

pkd/GH.