

OD-18

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

RVWO 44 OF 2023
IA NO: GA/2/2023
PRINCIPAL COMMISSIONER OF INCOME TAX, SILIGURI
-Versus-
PRAKASHO DEVI SARIA

BEFORE:

The Hon'ble the Chief Justice T.S. SIVAGNANAM, CHIEF JUSTICE

-And-

The Hon'ble JUSTICE HIRANMAY BHATTACHARYYA

Date : 22nd March, 2024

Appearance :

Mr. Soumen Bhattacharjee, Adv.

..for the appellant

Mr. Amales Ray, Adv.

Mr. Dhiraj Lakhotia, Adv.

Ms. Radhika Agarwal, Adv.

...for the respondent

The Court : We have heard Mr. Soumen Bhattacharjee, learned Counsel appearing for the appellant and Mr. Amales Ray, learned Counsel for the respondent.

There is a delay of 76 days in filing this review application. Since we are satisfied with the reasons offered in the application for condonation of delay, the delay in filing the appeal is condoned. The condone delay petition is allowed.

The assessee filed the review application being RVWO 27 of 2023 to review the judgment and order dated 14th June, 2022 in ITAT 138 of 2021. By order dated 17th May, 2023, Court declined to entertain the review application. However, since it was submitted that pursuant to order passed by the Tribunal refund was already granted to the assessee, there was an observation that if the amount has already been refunded to the assessee it should not be recovered by the Department on account of the judgment dated 14th June, 2022.

This observation will not help the assessee since after the judgment of this Court on 14th June, 2022 the assessee has paid the money on 9th September, 2022 and 15th September, 2022, as could be seen from the copy of the challan filed in the review application. Therefore, the observation that the Department should not recover the amount if it has already been paid by that the assessee, that will not enure in favour of the respondent/assessee and therefore the respondent/assessee is not entitled to make any application for refund.

With the above clarification, the review application stands disposed of.

(T.S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)