OD-16

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE

APOT/355/2023
IA NO: GA/1/2023
CHURIWAL COMMERCIAL COMPANY PRIVATE LIMITED
VS.
THE INCOME TAX OFFICER, WARD 6(1), KOLKATA & ORS.

BEFORE :

THE HON'BLE THE CHIEF JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
Date : 24th May, 2024

Appearance :
Mr. Rajarshi Chatterjee, Adv.
Ms. Suman Saheni, Adv.
...for Appellant

Mr. Aryak Dutt, Adv.
...for respondents

The Court : This intra-court appeal by the writ petitioner is directed against the order dated 5th September, 2023 in WPO 1532 of 2023.

The appellant had challenged the re-assessment order dated 30th May, 2023 passed under Section 147 read with Section 144B of the Income Tax Act, 1961 (the Act). The learned Single Bench dismissed the writ petition primarily on two grounds, firstly, the appellant had not been diligent in prosecuting the alternative remedies and secondly, as against the re-assessment order a statutory appeal is maintainable.

After we have elaborately heard Mr. Rajarshi Chatterjee, learned Counsel for the appellant/assessee and Mr. Aryak Dutt, learned Counsel for the respondents, we find complicated questions of facts are required to be gone into. It is not as if the appellant/assessee did not have an opportunity since the appellant/assessee had responded to the show cause notice by sending reply dated 22nd May, 2023. This reply has been considered and a conclusion has been drawn. The correctness of the conclusion drawn in the re-assessment order can be adjudicated only by the Appellate authority as disputed questions of fact are to be gone into. Therefore, we are of the view that the appellant should exercise statutory appellate remedy under the Act.

For the above reasons, the appeal is dismissed with liberty to the appellant to file an appeal before the statutory Appellate authority within 60(sixty) days from the date of receipt of the server copy of this order. If such appeal is filed, the Appellate authority shall not reject the appeal on the ground of limitation.

The application IA No: GA/1/2023 is also dismissed.

(T.S. SIVAGNANAM, C.J.)

(HIRANMAY BHATTACHARYYA, J.)

SN.
AR(CR)