OD-18

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE

APOT/378/2023
IA NO: GA/2/2023
DEPUTY COMMISSIONER OF INCOME TAX CIRCLE 5 1 KOLKATA
VS
M/S STANLEY VYAPAAR PVT LTD.

BEFORE :
THE HON'BLE THE CHIEF JUSTICE T.S SIVAGNANAM
-A N D-
HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
DATE : 5TH JULY, 2024.

Appearance :
Mr. Prithu Dudhoria, Adv.
…for appellant.
Mr. Brijesh Kumar Singh, Adv.
Mr. Om Prakash Prasad, Adv.
….for respondent

The Court :- This intra-Court appeal against the revenue is directed against the order passed in WPO No. 918 of 2023 dated 2.5.2023. The order in the writ petition at the behest of the respondent assessee is an order impugned in this appeal passed under Section 148A (d) of the Income Tax Act, 1961 dated 5.4.2022 for the assessment year 2018-19l. The question was whether the suit was barred by time. The facts are not in dispute. Notice under Section 148A(b) was issued on 12.03.2022, granting time to the assessee to file their reply by 20.3.2022. The assessee filed their reply on 17.3.2022 as the Statute as stood at the relevant time the order should have been passed not later than 31.3.2022 but the same came to be passed on 7.4.2022. The learned Advocate appearing for the appellant/revenue would contend that period of limitation is up to 7.4.2022 as seven days time has been granted under the proviso. However, the said extension was came into force by Finance Act, 2023 by substituting the words “less than seven days” with the words “does not exceed seven days” with effect from 1.4.2023.

Therefore, the department cannot take umbrage under the said amendment which came into effect much after the period expired in assessee’s case. Therefore, no grounds have been made out by the revenue to interfere with the impugned order.

This appeal, is therefore, dismissed.

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(T.S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)

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