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

ITAT/274/2023
MOHAMMED GYASUDDIN
-VS-
THE ASSISTANT COMMISSIONER OF INCOME TAX, CIRCLE 30, KOLKATA AND ORS

BEFORE:
THE HON'BLE THE CHIEF JUSTICE T.S. SIVAGNANAM
AND
HON'BLE JUSTICE SUPRATIM BHATTACHARYA

DATE: 5TH FEBRUARY 2024.

Mr. A. Mazumder, Adv.; Ms. A. Das, Adv., for appellant.
Mr. V. Kundalia, Adv.; Ms. O. Ghosal, Adv., for respondents.

The Court: This appeal, filed by the appellant-assessee under section 260A of the Income Tax Act, 1961 (hereinafter referred to as "the Act"), is directed against a common order dated June 16, 2023, passed by the Income Tax Appellate Tribunal, 'B' bench, Kolkata in ITA No.570/Kol/2020 and ITA No.571/Kol/2020 relating to the assessment years 2011-12 and 2012-13.

We have elaborately heard the learned counsel appearing for the appellant as well as the respondent.

The learned Tribunal had dismissed the appeal filed by the assessee largely on the ground that the learned Advocate who was representing the appellant had not appeared. In the grounds of appeal, the appellant-assessee has pointed out certain personal difficulties which prevented him from being in the country, as a result of which he could not diligently follow up the matter.

Considering the fact that the appeal is an indivudual assessee, we exercise discretionery power and opine that the appeal should be heard by the learned Tribunal on merits and the decision should be rendered after an opportunity to the appellant-assessee.

Thus, without going into the merits of the matter, only on this technical ground this Court is inclined to interfere with the order pased by the learned Tribunal.

The appeal is allowed and the impugned order passed by the learned Tribunal is set aside and the Tribunal appeal stands restored to its file and the same shall be heard by the learned Tribunal on merits and in accordance with law.

It is made clear that the appellant-assessee shall cooperate with the learned Tribunal for expeditious disposal of the appeal.

Before the learned Tribunal the substantial questions of law for its consideration are left open.

The appeal accordingly stands allowed in terms of the directions above.

(T.S. SIVAGNANAM, CJ.)

(SUPRATIM BHATTACHARYA, J.)

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