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

ITAT/174/2025
IA NO: GA/1/2025, GA/2/2025

PRINCIPAL COMMISSIONER OF INCOME TAX 13 KOLKATA
VS
RAHUL PANDEY

BEFORE:
The Hon'ble CHIEF JUSTICE (ACTING) SOUMEN SEN
The Hon'ble JUSTICE RAJA BASU CHOWDHURY
Date: 18th September, 2025.

APPEARANCE :
Mr. Tilak Mitra, Adv.
Mr. Amit Sharma, Adv.
Mr. Abhishek Kr. Agrahari, Adv.
...for the appellant.

1. Affidavit of service filed in Court today be kept on record.
2. There is a delay of 443 days in filing the appeal.
3. As sufficient cause has been shown for not preferring the appeal within the period of limitation, the delay in filing the appeal is condoned.
4. The application being IA No. GA/1/2025 is allowed and disposed of.

5. Challenging the orders dated 14th December, 2023 and 21st October, 2024 passed by the Income Tax Appellate Tribunal, "A" Bench, Kolkata in I.T.A. No. 516/Kol/2021 and M.A. No. 21/Kol/2024 respectively for the assessment year 2012-13, the instant appeal has been filed.
6. In an appeal filed by the assessee from the order dated 22nd October, 2021 passed by the National Faceless Appeal Centre under Section

250 of the Income Tax Act, 1961 (hereinafter referred to as the "said Act") the Tribunal by its order dated 14th December, 2023 by noting that the revenue department could not produce the copy of the approval granted by the competent authority for reopening the assessee's case, despite being afforded with repeated opportunity had while observing that the impugned assessment order under Section 143(3) read with Section 147 of the said Act, was bad for want of approval, had quashed the same.

7. Later the Department filed a miscellaneous application under Section 254(2) of the said Act with a prayer for correction of mistake in the order passed by the Tribunal pronounced on 14th December, 2023 for the assessment year 2012-13. By order dated 21st October, 2024, the Tribunal had opined, the application does not reveal that any mistake apparent on the record in the order of the Tribunal dated 14th December, 2023 and accordingly had dismissed the same.

8. Having heard the learned advocates for the parties, we find that admittedly, the approval under Section 151 of the said Act was not placed before the Tribunal when the order dated 14th December, 2023 was passed as has been noted in paragraph 5 of the stay petition. It was for the revenue department to place the approval before the Tribunal.

9. At this stage, the learned counsel for the appellant submits that the order of approval which could not be produced with the file before the tribunal was subsequently traced out and leave may be given to the appellant to file a review. The appellant seeks to withdraw the appeal.

10. The appeal being ITAT/174/2025 and the connected application being GA/2/2025 are dismissed as withdrawn.

11. The order shall not prevent to take appropriate steps in accordance with law.

12. We make it clear that the above order shall not be construed to have dealt with the merits of this case.

[SOUMEN SEN, CJ(ACTING.)]

(RAJA BASU CHOWDHURY, J.)

KB/mg