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

ITAT/290/2024
IA NO: GA/1/2025, GA/2/2025
PRINCIPAL COMMISSIONER OF INCOME TAX-1, KOLKATA
VS
M/S. DELIGHTED HOLDINGS PRIVATE LIMITED

BEFORE :

THE HON'BLE THE CHIEF JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE CHAITALI CHATTERJEE (DAS)
Date : 5th May, 2025

<u>*Appearance*</u> :
*Mr. Soumen Bhattacharjee, Adv.,*
*Mr. Tilak Mitra, Adv.*
*Mr. Ankan Das, Adv.*
*Ms. Shradhya Ghosh, Adv.*
*...for appellant*
*Mr. Subash Agarwal, Adv.*
*Mr. Rajarshi Chatterjee, Adv.*
*Mrs. Suman Sahani, Adv.*
*...for respondent*

The Court **:** We have heard Mr. Soumen Bhattacharjee, learned standing counsel for the appellant/revenue and Mr. Subash Agarwal, learned counsel for the respondent/assessee.

There is a delay of 273 days in filing the appeal. As the explanation offered is acceptable, the delay is condoned. The application being IA No: GA/1/2025 is allowed.

The appeal by the revenue under Section 260A of the Income Tax Act, 12961 (the Act) is directed against the order dated 22.09.2023 passed by the Income Tax Appellate Tribunal, "A" Bench, Kolkata (Tribunal) in ITA No. 625/Kol/2023, for the assessment year 2012-13.

The order passed by the learned Tribunal is a common order in two appeals filed by the assessee for the assessment years 2012-13 and 2013-14 in ITA 625/Kol/2023. The revenue had filed an appeal before this Court against the order passed by the learned Tribunal for the assessment year 2013-14 in ITAT 192 of 2024 in which the effect of the circular issued by the CBDT dated 15.3.2024 in Circular No.5 of 2024 was discussed and it was held that the appellate department cannot rely upon the same and consequently the appeal was dismissed. The operative portion of the order dated 7.8.2024 in ITA 192 of 2024 is quoted hereinbelow :-

> "The impugned order was passed by the learned tribunal on 22nd September, 2023. The certified copy was received on 7th November, 2023. The appeal ought to have been filed on or before 5th March, 2024 but the same was filed on 1st July, 2024. The department seeks to rely upon the circular issued by the CBDT dated 15th March, 2024 in Circular No.5 of 2024. This Circular having been issued much after the period of expiry of limitation. The department cannot rely upon the same apart from we find that the reasons are also not convincing."

In the light of the fact that an appeal filed by the revenue on the very same ground in respect of the common order passed by the Tribunal has already been dismissed by the above order, following the same, this appeal also stands dismissed.

The application stay application, GA/2/2025, also stays dismissed.

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

(CHAITALI CHATTERJEE (DAS), J.)

SN.
AR(CR)