

ITEM NO.48

COURT NO.2

SECTION IIIA

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.10462 OF 2010  
(Arising out of S.L.P. (C) No.10472 of 2009)

Commissioner of Income Tax, Kolkata-II      ...Appellant(s)

Versus

West Bengal Infrastructure Development  
Finance Corporation Limited      ...Respondent(s)

O R D E R

By consent, the matter is taken up for hearing. Heard learned counsel on both sides. Delay condoned. Leave granted.

Looking to the amount of tax involved in this case, we are of the view that the High Court ought to have decided the matter on merits. In all such cases where there is delay on the part of the Department, we request the High Court to consider imposing costs but certainly it should examine the cases on merits and should not dispose of cases merely on the ground of delay, particularly when huge stakes are involved.

Accordingly, the impugned order is set aside and the matter is remitted to the High Court to decide the case de novo in accordance with law.

We request the High Court to dispose of this case as early as possible, preferably within a period of four months from today.

The civil appeal is, accordingly, allowed.

No order as to costs.

.....CJI.  
[S.H. KAPADIA]

.....J.  
[K.S. PANICKER RADHAKRISHNAN]

.....J.  
[SWATANTER KUMAR]

New Delhi,  
December 10, 2010.