

OD-8

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

ITAT/54/2025
IA NO: GA/1/2025

SHIV NARAYAN BAHETI (ALIAS SHIV DAGA)
VS.
INITIATING OFFICER/ DY. COMMISSIONER
OF INCOME TAX, BENAMI PROHIBITION UNIT, KOLKATA

BEFORE :

THE HON'BLE THE CHIEF JUSTICE T.S. SIVAGNANAM
AND

THE HON'BLE JUSTICE CHAITALI CHATTERJEE (DAS)

Dated : 13TH MAY, 2025.

Appearance:

Mr. J. P. Khaitan, Sr. Adv.
Mr. Pratyush Jhunjhunwala, Adv.
Ms. Sretapa Sinha, Adv.
..for the Appellant

Mr. Vipul Kundalia, Sr. Adv.
Mr. Amit Sharma, Adv.
...for Respondent

THE COURT: We have heard Mr. J. P. Khaitan, learned senior Advocate appearing for the appellant and Mr. Vipul Kundalia, learned senior Advocate assisted by Mr. Amit Sharma, learned standing counsel appearing for the respondent/department.

A preliminary objection has been raised by the learned senior Advocate appearing for the department that the present appeal is not maintainable as an income tax appeal, since this appeal has been filed under Section 49 of the Prohibition of Benami Property Transactions Act, 1988 and the appeal cannot be number as an Income Tax appeal. Apart from that, there is also a time limit

provided under the 1988 Act and if the same is applied, the appeal is time barred.

It could be seen from the endorsement made by the Deputy Registrar (Legal) High Court, Original Side that as there is no precedence of calculation of delay in 'SAFEMA' matters, delay, if any, herein has been calculated as per the prevailing norms in Income Tax appeals.

Learned senior advocate appearing for the appellant submitted that the application for condonation of delay was prepared but the same was not filed in the light of the endorsement made by the department.

In the light of the above, the learned senior advocate appearing for the respondent-department submitted that this Court will not have determination to hear this appeal.

Let department examine this issue and submit a report to this Court with regard to the preliminary objection raised by the respondent-department as regards the maintainability of this appeal as an Income Tax appeal.

List this matter on May 20, 2025.

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

(CHAITALI CHATTERJEE (DAS), J.)