IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION (L) NO. 1547 OF 2014
IN
INCOME TAX APPEAL (L) NO. 1792 OF 2014

M/s Emerson Network Power
(India) Pvt. Ltd., Thane ..Applicant

Vs.

Assistant Commissioner of Income
Tax-1, Thane ..Respondent

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Mr. Subhash Shetty, Advocate i/b Mr. Atul Jasani for Applicant.
Mr. Suresh Kumar, Advocate for Respondent.

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CORAM : M.S. SANKLECHA &
G.S. KULKARNI, JJ.
DATED : 6 FEBRUARY 2015

P.C.:

1. This Notice of Motion seeks condonation of delay of 235 days in filing appeal. The affidavit in support of Notice of Motion indicates that the reason for the delay in filing the present appeal was resignation of its Assistant Manager, Taxation, who was looking after the tax matters and the realization of non filing of the appeal from the order of Tribunal for the Assessment Year 2008-09 in view of audit query in September 2013. Immediately, the appeal for the Assessment Year 2008-09 was prepared and filed on 9th October 2013.

2. Mr. Subhash Shetty, learned Advocate appearing for applicant also points out that lapse in filing the appeal was bonafide as evidenced by the fact that for earlier Assessment Year on an identical issue, the applicant's appeal being Income Tax Appeal (L) No. 1077/2011 has been admitted on 4 October 2011. Mr. Suresh Kumar, learned Advocate appearing for revenue opposes the application.

3. We find that applicants have provided sufficient explanation for delay in filing appeal. Moreover, the fact on an identical issue the question has been admitted by this Court for earlier Assessment Year supports the applicant's statement that this delay in filing of appeal was due to resignation of its employee looking after the filing of tax appeals.

4. Accordingly Notice of Motion is allowed in terms of prayer clause (a).

[G.S. KULKARNI, J] **[M.S. SANKLECHA, J.]**