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IN THE HIGH COURT OF DELHI AT NEW DELHI

ITA 254/2015

COMMISSIONER OF INCOME TAX(CENTRAL)-I..... Appellant
Through: Mr Rohit Madan and Mr Akash Vajpai,
Advocates.

versus

M/S YASH PAL NARENDER KUMAR Respondent
Through: Ms Ayiala Imti, Advocate.

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ITA 255/2015

COMMISSIONER OF INCOME TAX (CENTRAL)-I Appellant
Through: Mr Rohit Madan and Mr Akash Vajpai,
Advocates.

versus

M/S YASH PAL NARENDER KUMAR Respondent
Through: Ms Ayiala Imti, Advocate.

18.

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ITA 256/2015

COMMISSIONER OF INCOME TAX-(CENTRAL)-I Appellant
Through: Mr Rohit Madan and Mr Akash Vajpai,
Advocates.

versus

M/S YASH PAL NARENDER KUMAR Respondent
Through: Ms Ayiala Imti, Advocate

CORAM:

HON'BLE DR. JUSTICE S. MURALIDHAR

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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19.08.2015

CM 6984/2015

CM 6986/2015

1. Allowed, subject to all just exceptions.

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2. The application is disposed of.

ITA 254/2015 & CM 6985/2015

ITA 255/2015 & CM 6987/2015

ITA 256/2015 & CM 6988/2015

3. CM Nos. 6985, 6987 and 6988 of 2015 are applications by the Revenue seeking the condonation of an extraordinary delay of 500 days in re-filing each of the three appeals.

4. Repeating the standard explanation offered in other similar matters where the Revenue sought condonation of delay of a period far exceeding one year, in these applications three reasons are put forth. The first is that the Government of NCT of Delhi notified the Courts Fees (Delhi Amendment) Act in terms of which the amount of court fees to be paid underwent a change. The second reason is that the Court issued practice directions regarding filing of digitized copies of the paper books. The third is that there was a change of counsel.

5. None of the above three reasons are convincing. The change in the court fees legislation applicable to Delhi became effective from 1st August 2012 long before the present appeals were initially filed. As regards the second reason, the Court issued its practice directions on 7th November 2013 taking

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care to ensure that adequate arrangements were in place to facilitate scanning of appeals at the filing counters so that lawyers may not be inconvenienced. Neither of the reasons in any event justify a delay of 500 days in re-filing. The third reason is also not acceptable since there is panel of lawyers in the High Court representing the Revenue. If the counsel to whom the papers were entrusted was remiss, it should not have been difficult for the Deputy Commissioner of Income Tax (DCIT) in charge of the Revenue's Judicial Cell in the High Court to entrust the papers to some other counsel. Clearly, the DCIT was not following up on the filing of the appeals. Consequently, this Court is not satisfied that any convincing explanation has been offered for the extraordinary delay of 500 days in filing the appeals. .

6. Nevertheless, the appeals have been examined on merits as well. The deletion of the addition on protective basis made to the income of the Respondent Assessee while passing the assessment order under section 153C in consonance with the Section 132 (4) (A) of the Income Tax Act while making the substantive addition in the hands of Mr. Mukesh Garg. With the CIT (A) having deleted the substantive addition made to the income of Mr. Garg, the corresponding addition made on protective basis to

the income of the Respondent had to also be deleted.

7. Mr Rohit Madan, Senior Standing counsel for the Appellant pointed out that the said order of the CIT (A) in the case of Mr. Garg is in appeal before the ITAT. Notwithstanding that an appeal may be pending in the ITAT against the order of the CIT (A) in the case of Mr. Garg, the fact remains that as at present, the substantive addition made to the income of Mr. Garg stands deleted. Consequently, the addition on protective basis in the hands of the Respondent is not sustainable in law. No substantial question of law arises. The appeal is dismissed both on the grounds of delay and on merits.

8. It is clarified that this Court has not expressed any opinion regarding the validity of the addition made on substantive basis to the income of Mr. Mukesh Garg, as that question is pending consideration before the ITAT.



S. MURALIDHAR, J



VIBHU BAKHRU, J

AUGUST 19, 2015/pkv