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

NOTICE OF MOTION (L) NO. 2067 OF 2015
IN
INCOME TAX APPEAL (L) NO. 1029 OF 2015

Principal Commissioner of Income Tax
27, Mumbai .. Applicant

v/s.

M/s. Neelkanth Palm Realty .. Respondent

Mrs. S.V. Bharucha for the applicant
Mr. Shantibhushan Nirmal for the respondent

**CORAM : M.S. SANKLECHA &**
**B.P. COLABAWALLA, J.J.**
**DATED : 29th JANUARY, 2016.**

**P.C.**

1. This notice of motion seeks condonation of 126 days delay in filing the accompanying appeal from the order dated 17th November, 2014 passed by the Income Tax Appellate Tribunal. The Principal Commissioner of Income Tax has filed an additional affidavit dated 27th January, 2016 wherein he has pointed out that the actual delay is 83 days in filing the appeal. Further he has pointed out that by mistake the notice of motion seeks condonation of delay for 126 days instead of 83 days and has tendered his apology.

2. The application for condonation is vehemently opposed by Mr. Nirmal, learned Counsel for the respondent. According to him, the delay which has to be explained is 118 days.

3. We have perused the affidavit-in-reply and the affidavits in support of the motion. On perusal of the affidavits, we are satisfied that the delay in filing the appeal is 83 days. However, even taking 118 days delay as contended by the respondent as the correct number of days of delay, we find that the reasons for the same are satisfactorily explained in the affidavits in support of the motion to condone the delay in filing the present appeal.

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

**(B.P. COLABAWALLA, J.)** **(M.S. SANKLECHA, J.)**