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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ **ITA 637/2007**

AGYA RAM ..... Appellant

Through: Mr. K.R. Manjani and Mr. B.K. Manjani, Advocates.

Versus

INCOME TAX OFFICER ..... Respondent

Through: Mr. Sanjay Kumar and Mr. Dileep Shivpuri, Advocates.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE NAJMI WAZIRI

O R D E R

% 23.12.2016

CM Nos. 47110 & 47111/2016

1. CM No.47111/2016 seeks condonation of delay in re-filing CM No.47110/2016 seeking early disposal of the writ petition.

2. Issue notice. Mr. Dileep Shivpuri, Advocate accepts notice on behalf of the respondent.

3. In view of the contentions made and in the interest of justice, these applications are required to be accepted. Both these applications are therefore allowed.

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4. With the consent of the parties, the appeal is taken up for hearing.

5. Following three questions of law were framed for decision in this appeal on 23.08.2007:-

> *"1. Whether the Income Tax Appellate Tribunal was correct in law and on facts in holding that the reopening of the assessment under Section 147 of the Income Tax Act, 1961, was valid and in accordance with law?*
>
> *2. Whether the Income Tax Appellate Tribunal was correct in law and on facts in holding that the income derived by the appellant from licencing part of the premises is to be assessed under the head "Income from house property" under Section 22 of the Income Tax Act, 1961 and not under the head "Income from business" under Section 28 of the Income Tax Act, 1961 despite the fact the aforesaid income had regularly been assessed under the head income from business?*
>
> *3. Whether in the circumstances of the case, and on the proper interpretation of the licence deeds, the Tribunal was correct in law in holding that the licence fee received by the appellant from licencing part of the premises is to be assessed under the head "Income from house property" and not under the head "Income from business" despite that the assessee had to incur expenditure in connection with such licences granted by the assessee?"*

6. As is evident, the facts pertain to the reopening of a concluded assessment and treatment of income as to whether it classified as having been derived/received from income from house property or business. It is not in dispute that the present appeal was to be heard alongwith other appeals (ITA No. 290-93 of 2004, pertaining to Assessment Years 1990-91, 1992-93 and 1993-94). All the three questions were answered in favour of the assessee and against the respondent Revenue in the judgment and order dated 01.08.2016 (reported since as *Agya Ram Vs. Commissioner of Income Tax, (2016) 386 ITR 545*). This being the undisputed position, the present appeal has to follow suit. It is accordingly allowed; the questions of law are answered in favour of the assessee and against the Revenue.

7. The appeal is allowed in the above terms.

S. RAVINDRA BHAT, J.

NAJMI WAZIRI, J.

DECEMBER 23, 2016

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