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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
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\+ **ITA 112/2016**

THE COMMISSIONER OF INCOME TAX-IV, ... Appellant
Through: Mr Rahul Chaudhary, Senior Standing Counsel with Mr Raghvendra Singh, Junior Standing Counsel and Mr Sharad Agarwal, Advocate.

versus

M/S. DLF LTD. ..... Respondent
Through: Ms Kavita Jha and Ms Mehak Gupta, Advocates.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE VIBHU BAKHRU

<u>O R D E R</u>

% **09.02.2016**

<u>CM No.3180/2016 (for condonation of delay of 542 days in re-filing the appeal) in ITA 112/2016</u>

1. There is an inordinate delay of 542 days in re-filing the appeal.

2. The Court finds that the standard excuse that the Department is putting forth in all such applications for condonation of delay in re-filing the appeal is the change of Standing Counsel for the Department and the failure by the earlier counsel to inform the Department about the appeal lying in defect. This explanation does not impress the Court. It is not possible to accept that

no one in the Department followed up on the filing of appeals and allowed a period of almost one year and six months to elapse before the appeal could be re-filed. The Department has a cell in the High Court which is under the supervision of a Deputy CIT. He ought to be keeping track of the filing of appeals and should be able to know if any appeal entrusted to the panel counsel for filing has not been listed even once before the Court for a long time.

3. The application CM No. 3180/2016 for condonation of the delay of 542 days in re-filing the appeal is dismissed.

4. Nevertheless, the case has been examined on merits as well.

5. The challenge by the Revenue is to the impugned order dated 14th February 2014 passed by the Income Tax Appellate Tribunal ('ITAT') in ITA No.4343/Del/2012 for the Assessment Year ('AY') 2003-04 whereby the order of the Commissioner of Income Tax (Appeals) [CIT(A)] quashing the reopening of the assessment under Section 147 of the Income Tax Act by the Assessing Officer (AO) has been upheld.

6. As pointed out by the ITAT in respect of both the additions sought to be made in the reassessment proceedings specific queries had been raised during the original assessment proceedings and, therefore, as rightly observed by the CIT(A) there was no failure on the part of the Assessee to disclose all material facts.

7. Consequently, even on merits, the Court finds no substantial question of law arises.

8. The appeal is, accordingly, dismissed both on the ground of the delay of 542 days in re-filing the appeal as well as on merits.

S.MURALIDHAR, J

VIBHU BAKHRU, J

FEBRUARY 9, 2016
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