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

\+ ITA 526/2016

DIRECTOR OF INCO:ME-TAX-I ..... Appellant

Through Mr.Ruchir Bhatia, Sr. Standing counsel and Mr.Puneet Rai, Jr. Standing counsel.

versus

JC BAMFORD EXCAVATORS LIMITED, ... Respondent

Through Mr.M.S.Sayali, Sr.Adv. with Mr. Mayank Nagi and Mr.Tarun Singh, Advs.

\+ ITA 527/2016

DIRECTOR OF INCO:ME-TAX-I ..... Appellant

Through Mr.Ruchir Bhatia, Sr. Standing counsel and Mr.Puneet Rai, Jr. Standing counsel.

versus

JC BAMFORD EXCAVATORS LIMITED, ... Respondent

Through Mr.M.S.Sayali, Sr.Adv. with Mr. Mayank Nagi and Mr.Tarun Singh, Advs.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MS. JUSTICE DEEPA SHARMA

O R D E R

% **09.09.2016**

C.M.No.27741/2016 in ITA 526/2016 and

C.M.No.27742/2016 in ITA 527/2016

These are applications for condonation of delay of 660 days in re-filing of the appeals.

The impugned order in this case was made by the Income Tax Appellate Tribunal (hereinafter referred to as "ITAT") on 14.03.2014. The appeals itself were filed in the year 2014 and since returned to the Income Tax Department for curing the defects/objections.

The applications seeking condonation state as follows:-

> *a) Initially the aforesaid Appeal was filed on 29.08.2014 before this Hon'ble Court vide Diary No. 154242/2014.*
>
> *b) However, the same was scrutinized by the Registry of this Hon'ble Court and objections were marked and the Appeal was returned to the then Senior Standing Counsel of the Income Tax Department who had filed the Appeal.*
>
> *c) It is humbly submitted that as per the usual practice, once the Appeal stands filed, officials verily believe that the matter will be pursued by the Standing Counsel(s) and it is only after the disposal of the Appeal that the Applicant/Department is made aware of the outcome of the same. The Applicant/ Department is contacted during the pendency of the Appeal only if some assistance/instructions are needed/ required from Applicant's/Department's end.*
>
> *d) That however, the then Senior Standing Counsel resigned in the month of August 2014 and returned all the matters allocated to him including appeals which were filed but lying in defect. The matters were returned during the period September 2014 to December 2014 to the High Court Cell of the Judicial Office of the Income Tax Department.*

e) That the High Court Cell of the Judicial Office of the Income Tax Department reallocated the matters to other Senior Standing Counsels. However, the process was time consuming as the then Senior Standing Counsel was handling large number of matters. Further, there was restructuring of jurisdiction within the Department in the month of April, 2015. Hence, the original jurisdiction of the concerned CIT also underwent a change. In these circumstances, reallocation of the matters was not an easy task.

f) It is only in the month of August, 2015 in pursuance to order dated 20.08.2015 passed by this Hon'ble Court in I.T.A. No. 143/2013 that the Department has been advised that there are large number of appeals which have been marked as defective and yet to be listed. The present appeal is one of such Appeals.

This court notices that the explanation is not only unconvincing but entirely contrary. That the appeal was filed in August, 2014 and returned thereafter is not denied. The appeal papers were received by the Income Tax Department itself, which had reorganized its panel. The Income Tax Department reallocated its files to new standing counsels in April, 2015. The applicants further state that they became aware about pendency of large number of appeals including the present one. However, this reason in fact contradicts the previous averments that the appeal was returned to the office between some time in September-December, 2014.

In these circumstances, these reasons cannot be said to constitute “sufficient cause”. Further, court notices that there is no explanation for further delay which accrued between August, 2014 and 13.06.2016 when the appeals were actually re-filed.

This court has been consistently dismissing applications for condonation of delay in re-filing of the appeals wherever the delay has been more than a year, generally speaking. In these circumstances, the C.M.Nos. 27741/2016 and 27742/2016 are rejected. Consequently, the appeals are also dismissed.

S. RAVINDRA BHAT, J

DEEPA SHARMA, J

SEPTEMBER 09, 2016
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