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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
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+ **ITA 199/2016**

PR. COMMISSIONER OF INCOME TAX-2 ..... Appellant
Through: Mr. P. Roy Chaudhuri with Ms.Lakshmi Gurung, Advocates.

versus

BHASKAR POWER PROJECTS P.LTD. ..... Respondent
Through: Mr. B.B. Jain with Mr. Amitabh Marwah, Advocates.

CORAM:
JUSTICE S. MURALIDHAR
JUSTICE VIBHU BAKHRU

O R D E R
% **21.03.2016**

CM APPL No. 10445/2016 (For exemption)

1. Exemption allowed subject to all just exceptions.

2. The application is disposed of.

CM APPL Nos. 10444/2016 (for condonation of 1375 days in filing the appeal), 10446/2016 (for condonation of 1071 days in re-filing the appeal) & ITA No. 199/2016

3. There is an inordinate delay of 1375 days in filing the appeal as well as 1071 days in re-filing the appeal.

4. In the application (CM NO. 10444/2016) seeking condonation of delay of 1375 days in filing the appeal, it is stated that a certified copy of the impugned order of the Income Tax Appellate Tribunal ('ITAT') dated 20th February 2009 was received by the Department on 6th April

2009. Initially, the appeal was filed in the High Court of Gujarat on 31st September 2011. However, it transpires that on 18th August 2011 itself the case had been transferred to the Deputy Commissioner of Income Tax, Circle-2(1), New Delhi and, therefore, an appeal had to be filed in this Court. Ultimately, the Commissioner of Income Tax at Valsad in Gujarat wrote to his counterpart in Delhi on 9th July 2012 advising him to file the appeal in this Court. Notwithstanding the said letter, the present appeal was filed only on 10th May 2013. The delay between 9th July 2012 and 10th May 2013 in filing the appeal has not been satisfactorily explained in this application. All that is said is that in the aforesaid process 'delay has occurred'.

5. Consequently, the Court is not inclined to condone the delay in filing the appeal.

6. As far as the application for condoning the delay of 1071 days in re-filing is concerned (CM No. 10446/2016), 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 two-fold. The first is regarding change of Standing counsel for the Department. This does not impress the Court. It is not possible to accept that no one followed up on the filing of appeals and allowed a period of almost three years 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.

7. The second is regarding the practice directions issued by the Court

pertaining to filing of soft copies of the paperbooks in tax matters. Sufficient advance notice had been given to the litigants and Advocates about the filing of soft copies of the paperbooks. Further, the Registry of the Court had made appropriate arrangements for scanning services at the filing counters to facilitate the making of soft copies so that the inconvenience if any caused to the Advocates and the litigants is minimised. In any event the change could not have entailed a delay of almost three years.

8. The applications bearing CM No. 10444/2016 for condonation of delay of 1375 days in filing the appeal and CM No. 10446/2016 for condonation of the delay of 1071 days in re-filing the appeal are dismissed. Accordingly, the appeal is dismissed.

S. MURALIDHAR, J

VIBHU BAKHRU, J

MARCH 21, 2016
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