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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
16.
+ **ITA 196/2016**

PR. COMMSSIONER OF INCOME TAX-2 ..... Appellant
Through: Mr P. Roy Chaudhuri, Senior Standing Counsel and Ms Lakshmi Gurung, Junior Standing Counsel.

versus

BHASKAR POWER PROJECTS P. LTD. ..... Respondent
Through

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE VIBHU BAKHRU

O R D E R
% **18.03.2016**

CM No.9925/2016

1. Allowed, subject to all just exceptions.

2. The application stands disposed of.

CM Nos.9924/2016 (for condonation of delay of 1494 days in filing the appeal) CM No.9926/2016 (for condonation of delay of 1021 days in re-filing the appeal) & ITA 196/2016

3. There is an inordinate delay of 1494 days in filing the appeal and 1021 days in re-filing the appeal.

4. In the application (CM NO. 9924/2016) seeking condonation of delay of 1494 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 and disposed by an order dated 21st June 2012 with the liberty to file a fresh appeal before the Bombay High Court. However, it transpires that on 18th August 2011 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. It is stated that thereafter the Revenue sought the opinion of the Senior Standing Counsel for the Revenue for filing the appeal before this Court, which was consequently filed. However, in the said process "delay has occurred."

5. There is no explanation for the delay between 21st July 2012 when the order was passed by the Gujarat High Court and 9th May 2013 when this appeal was first filed. The entire approach appears to be casual. 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 1021 days in re-filing is concerned (CM No. 9926/2016), 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 regarding the practice directions issued by the Court pertaining to filing of soft copies of the paperbooks in tax matters.

7. As regards this ground, 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 more than three years.

8. Learned counsel for the Appellant pointed out a second reason. The change of Standing counsel for the Department. This again, 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 more than 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.

9. The applications CM No.9924/2016 for condonation of the delay of 1494 days in filing the appeal and CM No. 9926/2016 for condonation of the delay of 1021 days in re-filing the appeal are dismissed. Accordingly, the appeal is dismissed.

S.MURALIDHAR, J

VIBHU BAKHRU, J

MARCH 18, 2016
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