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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
**21.**
\+ **ITA 194/2016**

PR. COMMSSIONER OF INCOME TAX-2 ..... Appellant

Through: Mr P. Roy Chaudhuri, Senior Standing Counsel and Ms Laxmi Gurung, Junior Standing Counsel.

Versus

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

**CORAM:**
**JUSTICE S.MURALIDHAR**
**JUSTICE VIBHU BAKHRU**

**O R D E R**

% **16.03.2016**

**CM No.9654/2016**

1. Allowed, subject to all just exceptions.

2. The application stands disposed of.

**CM No.9653/2016 (for condonation of delay in filing the appeal), CM No.9655/2016 (for condonation of delay in re-filing the appeal) & ITA No. 194/2016**

3. There is an inordinate delay of 1174 days in filing the appeal as well as delay of 1008 days in re-filing the appeal.

4. In the application (CM NO. 9653/2016) seeking condonation of delay of 1174 days in filing the appeal, it is stated that a certified copy of the impugned order of the Income Tax Appellate Tribunal ('ITAT') dated 6th

January 2010 was received by the Department on 20th January 2010. Initially, the appeal was filed in the High Court of Gujarat and admitted on 30th 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 9th May 2013. The delay between 9th July 2012 and 9th May 2013 in filing the appeal has not been satisfactorily explained in this application. All that is said is that the transfer of records took ‘considerable time’.

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 1008 days in re-filing is concerned (CM No. 9655/2016), 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 bearing CM No.9653/2016 for condonation of delay of 1174 days in filing the appeal and CM No.9655/2016 for condonation of the delay of 1008 days in re-filing the appeal are dismissed. Accordingly, the appeal is dismissed.

**S.MURALIDHAR, J**

**VIBHU BAKHRU, J**

**MARCH 16, 2016/MK**