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

+ **ITA 653/2016 & CM No. 31016/2016**

COMMISSIONER OF INCOME TAX (C)-I Appellant

Through: Mr. Dileep Shivpuri, Sr. Standing
Counsel along with Mr. Sanjay
Kumar, Jr. Standing Counsel.

versus

MOONLIGHT CONTINENTAL (P) LTD. Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER

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25.10.2016

CM No. 31016/2016 (condonatin of delay)

This is an application seeking condonation of delay in filing of the appeal. The delay is over 820 days. There is hardly any explanation-the grounds urged are that the appeals were returned for removal of objections but could not be filed within time on account of pendency of a large number of cases. The other ground is that the panel underwent re-organisation and as a result the revenue could not diligently follow up the appeal. Such explanations cannot reasonably be called "sufficient cause" to enable the court to condone the delay in the filing of the appeal. Application therefore has no merits. Even otherwise, the court has on the merits for the previous years concluded

that the activity i.e. the sale of shares and securities does not constitute business income of the assessee but rather falls within description of the short term capital gain. Consequently, the ITAT's order does not suffer from any infirmity.

For the above reasons, the application and appeal are dismissed.

S. RAVINDRA BHAT, J

DEEPA SHARMA, J

OCTOBER 25, 2016

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