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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **ITA 539/2016 & CM No. 27791/2016**
COMMISSIONER OF INCOME TAX-XIII Appellant

Through: Mr. Ruchir Bhatia, Advocate along
with Mr. Puneet Rai, Advocate.

versus

B.S.V. ENTERPRISES Respondent
Through: Mr. Pranjal Srivastava, Advocate.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER
% **19.09.2016**

The revenue's appeal is delayed by 950 days; the explanation for the delay in re-filing the appeal cannot be termed as "sufficient cause". Even otherwise, the question urged i.e. the treatment of interest earned by the assessee prior to date of the commencement of its business, - whether it is capital or revenue in nature has been held against the revenue itself for the previous AY 2004-2005 in ITA No. 801/2015. This court notices that the said judgment was based upon application of the rule enunciated by the Supreme Court in **Indian Oil Panipat Consortium vs. Commissioner of Income Tax** reported in (2009) 315 ITR 255. In Indian Oil (supra) in turn had taken into consideration all previous binding judgments of the Supreme Court on the point. Consequently, no question of law arises; the appeal is therefore

dismissed as well.

S. RAVINDRA BHAT, J

V. KAMESWAR RAO, J

SEPTEMBER 19, 2016

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