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

36.

\+ **VAT APPEAL 9/2016**

KAPUR GEMS PVT. LTD. ..... Appellant

Through Mr Raj Kumar Batra, Advocate.

versus

COMMISSSIONER OF TRADE & TAXES & ANR. ..... Respondents

Through Mr Gautam Narayan, ASC with Mr R.A Iyer, Advocate.

AND

3.

\+ **ST.APPL. 11/2016**

KAPUR GEMS PVT. LTD. ..... Petitioner

Through Mr Raj Kumar Batra, Advocate.

versus

COMMISSIONER OF TRADE AND TAXES, & ANR. ..... Respondents

Through Mr Gautam Narayan, ASC with Mr R.A Iyer, Advocate.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE VIBHU BAKHRU

O R D E R

% **24.05.2016**

CM 20040/2016 (Exemption) in VAT APPEAL 9/2016

1. Exemption allowed subject to all just exceptions.

CM 20043/2016 (Condonation of delay in re-filing the appeal) in VAT APPEAL 9/2016

2. For the reasons stated therein, the delay of 13 days in re-filing the petition is condoned.

3. The application is disposed of.

CM 20042/2016 (condonation of delay in filing the Appeal) in VAT APPEAL 9/2016 and CM 18695/2016 (Condonation of delay in filing the Appeal) in ST.APPL. 11/2016

4. The delay of 546 and 543 days respectively in filing the above two appeals has been explained by pointing out that against the impugned common order dated 16th July 2014 of the learned Single Member of the Appellate Tribunal, Value Added Tax ('AT'), writ petitions were filed in this Court which ultimately came to be decided on 18th February, 2016 holding that an order passed by the Single Member of the AT was valid. The Court had in that judgment granted leave to the Petitioners to prefer the present statutory appeals along with applications for condonation of delay.

5. In that view of the matter the delay in filing the present appeals is sufficiently explained and is, accordingly, condoned. The applications are disposed of.

VAT APPEAL 9/2016 & CM 20041/2016 (Stay)
ST.APPL. 11/2016 & CM 18694/2016 (Stay)

6. The short question that arises for determination is whether the AT was by the impugned order dated 16th July 2014 in the applications for waiver of

pre-deposit in Appeal Nos. 991-1091/ATVAT/ 13-14 for Assessment Years (AYs) 2007-08, 2008-09, 2009-10,2010-11 & 2011-12 justified in requiring the Appellant to pay 20% of the tax and interest and 10% of the penalty as pre-deposit for the purposes of the appeals to be considered.

7. Having heard learned counsel for the parties, the Court is of the view that the impugned order dated 14th July 2014 of the AT requires to be modified by requiring the Appellant to deposit 10% of the disputed amount of the tax alone or furnish a security equivalent to the said amount to the satisfaction of the AT within a period of four weeks from today.

8. Subject to the compliance of the above direction, Appeal Nos. 991-1091/ATVAT/ 13-14 before the AT shall stand restored to the file of the AT for being considered on merits. It will be open to the Respondents to raise any objection they may have to the maintainability of the said appeals on the ground of delay. Such objection will also be considered by the AT in accordance with law. The appeals and applications are disposed of in the above terms.

S.MURALIDHAR, J

VIBHU BAKHRU, J

MAY 24, 2016
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