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IN THE HIGH COURT OF DELHI AT NEW DELHI

\+ **VAT APPEAL 10/2016**

KROSS DAIMONDS PVT. LTD. ..... Appellant
Through: Mr. Raj Kumar Batra and Mr. Sumit K. Batra, Advocates.

versus

COMMISSIONER, VAT & ANR. ..... Respondents
Through: Mr. Gautam Narayan, ASC with Mr. R. A. Iyer, Advocate.

With

\+ **VAT APPEAL 11/2016**

KAPUR GEMS PVT. LTD. ..... Appellant
Through: Mr. Raj Kumar Batra and Mr. Sumit K. Batra, Advocates.

versus

COMMISSIONER OF TRADE & TAXES & ANR..... Respondents
Through: Mr. Gautam Narayan, ASC with Mr. R. A. Iyer, Advocate.

And

\+ **VAT APPEAL 12/2016**

KAPUR GEMS PVT. LTD. ..... Appellant
Through: Mr. Raj Kumar Batra and Mr. Sumit K. Batra, Advocates.

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

% **25.05.2016**

CM 20256 of 2016 (exemption) in VAT APPEAL 10/2016
CM 20260 of 2016 (exemption) in VAT APPEAL 11/2016
CM 20264 of 2016 (exemption) in VAT APPEAL 12/2016

1. Allowed subject to all just exceptions.

CM 20259/2016 in VAT APPEAL 10/2016
CM 20263/2016 in VAT APPEAL 11/2016
CM 20267/2016 in VAT APPEAL 12/2016

2. For the reasons stated therein, the delay in re-filing the appeals is condoned.

3. The applications are disposed of.

CM 20258/2016 in VAT APPEAL 10/2016
CM 20262/2016 in VAT APPEAL 11/2016
CM 20266/2016 in VAT APPEAL 12/2016

4. The delay of 546 days in filing the above three 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

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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 10/2016 & CM 20257/2016 (stay)
VAT APPEAL 11/2016 & CM 20261/2016 (stay)
VAT APPEAL 12/2016 & CM 20265/2016 (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 Appellants 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 16th July 2014 of the AT requires to be modified by requiring the Appellants 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 25, 2016
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