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IN THE HIGH COURT OF DELHI AT NEW DELHI

ITA 271/2015 & CM No.7356/2015

COMMISSIONER OF INCOME TAX (CENTRAL)-II ..... Appellant

Through: Mr Rohit Madan, Advocate.

versus

SURENDRA SINGH ..... Respondent

Through: Mr M. P. Rastogi and Mr K. N. Ahuja, Advocates.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE VIBHU BAKHRU

ORDER

% **07.01.2016**

1. There is an inordinate delay of 496 days in re-filing the appeal. The explanation offered is the standard one regarding the practice directions issued by this Court for e-filing of the appeals. As has already been observed by this Court in several orders, the practice directions were issued after consultation with the bar and after giving sufficient time for the bar to get acquainted with the requirement of e-filing. Additionally, the Court has also provided scanning machines at the filing counter so that no difficulty is caused to the bar for switching over to the system of e-filing. In any event, the delay of over one and a half years on this ground is wholly unacceptable.

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Consequently, the Court is not persuaded to condone the extraordinary delay of 496 days in re-filing the appeal.

2. Nevertheless, the appeal has also been examined on merits.

3. This appeal by the Revenue under Section 260A of the Income Tax Act, 1961 is directed against an order dated 5th April, 2013 passed by the Income Tax Appellate Tribunal ('ITAT') in ITA No. 6136/Del/2012 for the Assessment Year ('AY') 2009-10.

4. The question sought to be urged by the Revenue is whether Section 50C of the Act would be applicable to the computation of the sale price of the land transferred to the Respondent Assessee during the relevant AY?

5. Admittedly, the sale agreement in the present case was entered on 30th March, 2009 but was not registered. One of the factors that weighed with the ITAT in the impugned order, while reversing the order of the Commissioner of Income Tax (Appeals), was that the word "assessable" in Section 50C (1) along with Explanation 2 was inserted only with effect from 1st October, 2009 and, therefore, the transaction in question fell outside the net of Section 50C of the Act. The Court has been shown the Circular issued

by the Central Board of Direct Taxes explaining the aforementioned insertions in Section 50C pertaining to 'deemed valuation in certain cases of transfer'. The said Circular clarifies that the aforementioned insertions in Section 50C are prospective and apply "in relation to transactions undertaken on or after 1st October, 2009.

6. In that view of the matter, the impugned order of the ITAT suffers from no legal infirmity and does not give rise to any substantial question of law.

7. The appeal is accordingly dismissed both on the grounds of inordinate delay of 496 days in re-filing the appeal as well as on merits.

S.MURALIDHAR, J

VIBHU BAKHRU, J

JANUARY 07, 2016
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