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

\+ ITA 872/2016, CM No.45075/2016

COMMISSIONER OF INCOME TAX--V

..... Appellant

Through: Mr. N.P. Sahni, Sr. St. Counsel with Mr. Nitin Gulati, Jr. St. Counsel.

Versus

RESISTOFLEX DYNAMICS (P)LTD.

..... Respondent

Through: None.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE NAJMI WAZIRI

<u>O R D E R</u>

% 19.12.2016

The present appeal under Section 260A of the Income Tax Act, 1961 seeks to impugn an order of the Income Tax Appellate Tribunal (ITAT) dated 06.12.2013 in ITA No. 2554/Del/2013 for the Assessment Year (AY) 2009-10.

At the outset, we notice that the Revenue has filed this appeal after an inordinate delay of 646 days. The reason for the delay has not been properly explained. A general explanation that the process of e-filing required several procedural compliances which could not be fulfilled within the time and that the defects pointed out by the Registry too could not cured since there was overload of work on the part of the Revenue, is not sufficient cause to warrant condonation of delay.

Besides, on merits too, the Court notices that the question of law urged - whether assembling of the ultimate product i.e. air springs - for use by the railways, which conformed to exact specifications - amounted to process of manufacture or amounted to manufacture. The ITAT concluded on detailed analysis that specialised nature of the task showed that the process was manufacture. It also relied upon the clearances given by various other authorities including the Central Excise Authorities on the self saying issue. Furthermore, the ITAT took note of the fact that for the previous year, same question had been gone into and a finding was rendered in favour of the assessee.

For the above reasons as well as on the ground of delay, no interference is called for with the order of the ITAT. The appeal is dismissed.

S. RAVINDRA BHAT, J.

NAJMI WAZIRI, J.

DECEMBER 19, 2016/acm