$~3

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

\+ ITA 537/2016 & CM No. 27787/2016

COMMISSIONER OF INCOME INCOME TAX-I ..... Appellant

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

versus

M/S ARAVALI POWER COMPANY PVT. LTD. ..... Respondent

Through: Mr. Pranjal Srivastava, Advocate.

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

O R D E R

% **19.09.2016**

The revenue's appeal is delayed by 480 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 2010-2011 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
sapna