

\$~

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

16.

+

ITA 358/2016

PC COMMISSIONER OF INCOME TAX-1

..... Appellant

Through Mr Zoheb Hossain, Senior Standing
Counsel with Mr Deepak Anand, Advocate.

versus

GREEN VALLEY PLYWOOD LIMITED

..... Respondent

Through Mr Pranjal Srivastava, Advocate.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE VIBHU BAKHRU

ORDER

%

01.06.2016

CM 22376/2016 (for condonation of delay of 375 days in filing the appeal)

1. There is an inordinate delay of 375 days i.e. about a year in the filing of the present appeal by the Revenue.

2. The Court finds that the standard excuse that the Department is putting forth in all such applications for condonation of delay in filing of the appeal is regarding the practice directions issued by the Court pertaining to filing of soft copies of the paperbooks in tax matters. Sufficient advance notice had been given to the litigants and Advocates about the filing of soft copies of the paperbooks. Further, the Registry of the Court had made appropriate arrangements for scanning services at the filing counters to facilitate the

making of soft copies so that the inconvenience if any caused to the Advocates and the litigants is minimised. In any event, the delay of over a year on this ground is wholly unacceptable. The application is accordingly dismissed.

ITA 358/2016

3. Nevertheless the appeal is also considered on merits.

4. This Appeal is by the Revenue against the order dated 30th October, 2014 passed by the Income Tax Appellate Tribunal ('ITAT') in ITA No. 4320/Del/2012 for Assessment Year ('AY') 2003-04.

5. The issue sought to be urged by the Revenue in the present Appeal is whether the ITAT was justified in upholding the order of the Commissioner of Income Tax (Appeals) in deleting the addition made by the Assessing Officer (AO) of Rs.1,20,00,000/- to income disclosed in the return filed for AY in question on account of unexplained credit under Section 68 of the Income Tax Act, 1961 ('Act').

6. Learned counsel for the Revenue does not dispute that in the present case despite the Assessee furnishing confirmation from the investor companies, their acknowledgment returns, certificates of incorporation, confirmation of payment of share application money etc, the AO did not conduct any inquiry to verify the said documents. He only relied on the report of investigation which in turn was based entirely on the statements of the alleged accommodation entry providers. However, Mr Zoheb Hossain, learned Senior Standing counsel appearing for the Revenue, seeks to rely on the

decision of the Calcutta High Court in *Hindustan Tea Trading Company v Commissioner of Income Tax (2003) 263 ITR 289 (Cal)* to urge that in such event the matter should be remanded to the CIT (A) for a fresh consideration of the genuineness and creditworthiness of the creditors.

7. The Court is not willing to accept the above submission for the reason that the AY in question is of 2003-04 and at this stage to remand the matter to enable the Revenue to rectify an obvious error would not be justified. No substantial question of law arises.

8. The appeal is dismissed both on the grounds of the delay in filing as well as on merits.

S.MURALIDHAR, J

VIBHU BAKHRU, J

JUNE 01, 2016

pkv