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

\+ ITA 617/2016, CM APPL. 30407/2016

COMMISSIONER OF INCOME TAX-IV ..... Appellant
Through: Zoheb Hossain, Sr. Standing Counsel.

versus

DIGITAL REDIO (KOL)BROADCASTING LTD ..... Respondent
Through: Mr. Sandeep Sapra and Mr Manu K. Giri, Advs.

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

O R D E R

% 06.12.2016

The question of law is as to whether the expenditure towards license fee had to be treated as revenue or capital. The issue is no longer *res integra*. Besides, the appeal was re-filed after a delay of 640 days without proper explanation. The explanation given, i.e., there is change of counsel by revenue; large pendency of appeals and its inability to process and oversee those cases cannot be called sufficient cause. As stated earlier, on the merits the issues sought to be agitated in the appeal are recovered by the order of this Court in the case of *Commissioner of Income Tax-IV v. Digital Radio (Del) Broadcasting Ltd.,* ITA 41/2016 decided on 20.01.2016. Consequently, the application for condonation of delay and the appeal are rejected as unwarranted.

S. RAVINDRA BHAT, J

NAJMI WAZIRI, J

DECEMBER 06, 2016/acm