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

\+ ITA 750/2016, CM APPL.40126/2016 &
ITA 873/2016, CM APPL.45105-45106/2016

COMMISSIONER OF INCOME TAX (C)-I ..... Appellant
Through: Mr. Sanjay Kumar, Advocate.

versus

SAHARA INDIA SAVING & INVESTMENT CORP. LTD. ..... Respondent
Through: Mr. Arta Tarana Panda, Advocate.

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

O R D E R

% **05.12.2016**

There is an inordinate delay of 738 days in filing the appeals. The revenue seeks to explain this on account of reorganisation of its panel of counsel and further that there were a large number of cases pending as a result of which there was no monitoring of its appeals.

In the opinion of this Court - as expressed in previous other appeals as well - these reasons cannot be characterized as sufficient cause to entitle the appellant/revenue for condonation of delay. In any case there are no valid grounds for that purpose. The applications have to be, therefore, dismissed.

On the merits as well, we notice that the two appeals concerned two years. In one year, the issue was whether reassessment notice under Section 147/148 was validly issued. The ITAT concluded that on an application of the principle enunciated by the Supreme Court in *Commissioner of Income Tax, Delhi vs. Kelvinator of India Ltd.*

(2010) 320 ITR 561 (SC) as a matter of fact there was no tangible material. We see no reason to disagree with those findings.

For the other year, i.e., 1994-95, two issues are sought to be urged by the revenue. One concerns the provisioning of interest. The revenue had initially urged that the provision for interest was not made on a rational basis and was excessive. The ITAT concluded otherwise. It was also noticed that in the subsequent year, a statutory audit had in fact confirmed the assessee's contentions. These are factual and the Court finds no rationale to interfere with these findings.

The second issue urged on the merits for AY 1994-95 is the verification of materials. The matter was restored to the file of the Assessing Officer for due appraisal of the fact. This order of the ITAT does not call for interference.

The last issue was the addition made under Section 68 by the Commissioner who exercised his power under Section 263 of the Income Tax Act. The ITAT concluded that the Commissioner's order was not warranted in the circumstances of the case. This too does not call for any interference.

No substantial question of law arises; the applications for condonation of delay and the appeals are, therefore, dismissed.

S. RAVINDRA BHAT, J

NAJMI WAZIRI, J

DECEMBER 05, 2016
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