IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO. 1096 OF 2015
IN
INCOME TAX APPEAL (L) NO. 436 OF 2015

Principal Commissioner of Income Tax 2, Indore	}	**Applicant**
versus		
Ramakrishna Pharmaceuticals Ltd.	}	**Respondent**

Mr. Arvind Pinto for the appellant/ applicant.

Mr. Kirit J. Hakani for the respondent.

CORAM :- S. C. DHARMADHIKARI &
B. P. COLABAWALLA, JJ.
DATED :- MARCH 20, 2017

P.C. :-

1. We have heard both sides. We have perused the affidavit in support, the reply and the further affidavit. Initially, this appeal was filed in the High Court of Madhya Pradesh. The High Court of Madhya Pradesh, Bench at Indore was informed that the order impugned in this appeal is passed by the tribunal sitting at Mumbai. In such circumstances, leave was sought to withdraw that appeal, but the Department had to seek the counsel's view as to whether this was the correct approach or otherwise. The time was, therefore, spent in obtaining such opinion and view of the standing counsel.

2. We are of the opinion that this delay has occurred bonafide and the explanation is true and reasonable. The delay has to be condoned. We cannot refuse to exercise our discretion because the Revenue has withdrawn the appeal before the High Court of Madhya Pradesh on its own understanding and the High Court of Madhya Pradesh has not opined or ruled upon its own jurisdiction to entertain and try it. The lapse on the part of the Revenue should not affect and prejudicially the larger public interest. That is why the delay is condoned. The motion is made absolute in terms of prayer clause (a). There would be no order as to costs.

(B.P.COLABAWALLA, J.) (S.C.DHARMADHIKARI, J.)