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

\+ **ITA 126/2017 & CM No.4722/2017**

COMMISSIONER OF INCOME TAX-IV ..... Appellant
Through: Mr. Zoheb Hossain and Mr. Deepak Anand, Advocates.

Versus

GABS FABRICS PVT. LTD. ..... Respondent
Through: None.

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

O R D E R

% **07.02.2017**

1. The Revenue is aggrieved by the order of the Income Tax Appellate Tribunal ('ITAT'), which in a reassessment proceeding, upset the findings of the Assessment Officer ('AO') and the Commissioner of Income Tax (Appeals) ['CIT(A)'].

2. The brief facts of the case are that the assessment proceedings framed under Section 143(1) of the Income Tax Act, 1961 ('the Act') were reopened by a notice under Sections 147/148 of the Act. In the course of the reassessment, the AO added a sum of ₹45,42,125/- under Sections 68/69C of the Act. The assessee's appeal to the CIT(A) was unsuccessful. The ITAT reasoned that contrary to the lower authorities' findings - the relevant materials in the form of bank statements, PAN of the share applicants, Income Tax Returns, and other relevant particulars were part of the record.

Upon re-appreciation of these materials, the ITAT concluded that the additions were unwarranted.

3. This Court has gone through the grounds urged in support of the appeal and also heard submissions of the Revenue. At the outset, it is noticed that the appeal is highly belated – and has been re-filed after 759 days. The rationale for the delay is change of counsel and also, apparently, the heavy workload of the Revenue. These cannot be legitimate grounds for condoning the delay.

4. Quite apart from the question of delay, the Court is of the opinion that the ITAT's appreciation of the facts as closure is based upon records. Furthermore, the tax effect in this case – upon an addition of ₹45,42,125/-, is also low. In the circumstances, given that the findings affected cannot be called unreasonable, and also on the ground of delay, the application and the appeal are dismissed as meritless.

S. RAVINDRA BHAT, J.

NAJMI WAZIRI, J.

FEBRUARY 07, 2017

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