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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
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+ **ITA 868/2017**

PR.COMMISSIONER INCOME TAX-4 ..... Appellant
Through: Mr Ashok K. Manchanda, Senior Standing Counsel

versus

HISTORIC INFRACONE PVT.LTD ....Respondent
Through: None

**CORAM:**
**JUSTICE S.MURALIDHAR**
**JUSTICE PRATHIBA M. SINGH**

**<u>O R D E R</u>**
% **13.10.2017**

**<u>CM 36944/2017 (exemption)</u>**

1.Allowed, subject to all just exceptions.

**<u>CM 36945/2017 (delay in re-fling)</u>**

2.The delay of 180 days in re-filing the appeal is condoned. The application is disposed of.

**<u>CM 36945/2017 (delay of 335 days in fling)</u>**

3. The explanation offered by the Revenue for the extraordinary of 335 days in filing this appeal is three-fold. One is that the typed copies of all the orders were required to be filed along with the appeals. This in anyway a procedural requirement and cannot justify the delay for preparing to file the appeal

4. Secondly, it is stated that because of the change to the e-filing system, the entire process had to be repeated and the appeal e-filed. This Court in several orders has pointed out that the Registry took upon itself the

responsibility of ensuring that there was absolutely no difficulty in shifting to the e-filing system. Orientation sessions were held for the bar and scanning machines placed at the filing counters so that there was no difficulty faced in e-filing of the appeals.

5. Lastly, it is pointed out that that the appeal had to be processed through the official channel/hierarchy before being filed and this took time. As far as this is concerned, the Supreme Court has in ***Postmaster General v. Living Media India Limited (2012) 3 SCC 563*** observed as under:

> "In our view, it is the right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bonafide effort, there is no need to accept the usual explanation that the file was kept pending for process. The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for the Government Departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few."

6. The above observation has been reiterated by the Supreme Court in State of ***U.P. v. Amar Nath Yadav (2014) 2 SCC 422***.

7. The explanation offered by the Revenue for the extraordinary delay of 335 days in filing the appeal is unsatisfactory. The application is accordingly dismissed.

8. Consequently, the appeal is dismissed.

**S.MURALIDHAR, J.**

**PRATHIBA M. SINGH, J.**

**OCTOBER 13, 2017/***rd*