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* IN THE HIGH COURT OF DELHI AT NEW DELHI

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\+ **ITA 372/2017**

COMMISSIONER OF INCOME TAX (C)-I ..... Appellant

Through: Mr Rahul Kaushik, Senior Standing Counsel

versus

DIAMOND HUT INDIA (P) LTD. ..... Respondent

Through: Mr Sahil Kapoor, Mr Sumit Lal Chandani, Mr Ananya Kapoor and Ms Soumya Singh, Advocates

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE PRATHIBA M. SINGH

O R D E R

% **07.07.2017**

CM 17101/2017 (delay of 21 days in filing)

1. For the reasons stated in the application, the delay of 21 days in filing the appeal is condoned. The application is allowed.

CM 17102/2017 (delay of 957 days in re-filing)

2. There is an extraordinary delay of 957 days in re-filing the appeal. The explanation offered for the delay is given in paras 4, 5 and 6 of the application, which read as under:

> "4. That after the introduction of e-filing system, the appeals pertaining to taxation are to be filed electronically. The process of e-filing requires several procedural compliances in the terms that after completing the process of pagination, attestation, serving advance copy to the opposite parties, taking caveat report, the entire set of appeal is given in CD for being converting the same into a systematic CD. The appeal is then

converted into systematic e-scan CD using specialized software. This software is not available with Sr. Standing Counsel of the Income Tax Department and for converting the appeal into a systematic e-scan CD, services of authorized vendors (which are very few) have to taken. The process of conversion of the appeals in systematic e-scan CD itself involves substantial time. After the appeal is converted into a systematic e- CD, the same has to be filed electronically and accordingly an e-filing number is generated.

5. That the procedure of checking these appeals which are e-filed electronically is also different. As the appeals are e-filed, the same are checked electronically. In case any defects are pointed out by the High Court Registry, the entire process stated above has to be repeated and the appeal is again e-filed. At this juncture, it may be stated that the 'defect(s)' marked by the registry are, usually procedural in nature, such as (i) the age of the concerned CIT signing the affidavit is not stated in thc affidavit, (ii) the PAN of the assessee/respondent is not mentioned, (iii) the service to the assessee/respondent is more than one week ago etc, etc. Usually, the registry takes two-three days' time to make fresh copy and during that time the caveat report expires and the whole process is to be repeated again.

6. That the Appellant then initiates the process of re-filing the appeal. This takes some time as the whole process as stated above has to be followed again. Further at times, correspondence/liaisoning has to be made with the Income Tax Department with the request to make money available for incurring the expense and a substantial time is involved in this exercise.."

3. The other reason given is the change in the panel counsel and the failure of previous counsel to cure the defects and re- file the cases in time.

4. The above explanation is wholly unsatisfactory. The introduction of the e-

filing system was preceded by orientation held by the Registry of the High Court for the lawyers and provision of facilities for smooth transition for the changed system of filing. In any event this could hardly justify a delay of 957 days in filing. The administrative difficulties are of the Appellant's own making and also does not justify the extraordinary delay.

5. As far as the change in counsel is concerned, there is a Dy CIT attached to the Department's cell in the High Court who is expected to oversee the work of the Department as regards filing of appeals. It is strange that no one followed up with counsel who filed the appeal earlier about the status of numbering of the appeal for nearly three years after it was filed.

6. There is no explanation for every day’s delay. A delay of 957 days in re-filing the appeal cannot be said to be routine. With there being no satisfactory explanation, the application for condonation of 957 days in re-filing the appeal is dismissed.

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7. Accordingly, the appeal is dismissed.

S.MURALIDHAR, J

PRATHIBA M. SINGH, J

JULY 07, 2017
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