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* IN THE HIGH COURT OF DELHI AT NEW DELHI
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\+ ITA 241/2017 & CM No. 12139/2017

COMMISSIONER OF INCOME TAX
(CENTRAL) –I ..... Appellant
Through Mr. Ashok Manchanda, Sr. Standing Counsel

versus

SAHARA INDIA FINANCIAL
CORPORATION LTD. ..... Respondent
Through

**CORAM: JUSTICE S.MURALIDHAR**
**JUSTICE CHANDER SHEKHAR**

**<u>O R D E R</u>**
% **19.04.2017**

**<u>CM No. 12139/2017</u>**

1. This application seeks the condonation of an extraordinary delay of 910 days in re-filing the appeal of the Revenue under Section 260-A of Income Tax Act, 1961 directed against an order dated 10th January, 2014 passed by the Income Tax Appellate Tribunal (ITAT) in ITA No.3199/Del/2013 for the Assessment Year 2009-10.

2. The explanation for the delay is set out in para 4 of the application and reads as under:

> "4. (a) Initially the aforesaid Appeal was filed on 20.08. 2014 before this Hon'ble Court vide Diary No. 146336 of 2014.

a) However, the same was scrutinized by the Registry of this Hon'ble Court and objections were marked and the Appeal was returned to the then Senior Standing Counsel of the Income Tax Department who had filed the Appeal. The fact that there were defects/ objections in the filing of the appeal was not communicated to the office of the Applicant.

b) Subsequently, the tenure of the Counsel to whom the matter was allocated to, came to an end in the month of January, 2016 i.e. almost after 26 months from the date of filing the Appeal. It is submitted that office of the Applicant was not made aware as to whether the Appeal has been listed or not. It is further submitted that as per the usual practice, once the Appeal stands filed, officials verily believe that the matter will be pursued by the Standing Counsel(s) and it is only after the disposal of the Appeal that the Applicant/Department is made aware of the outcome of the same. The Applicant/ Department is contacted during the pendency of the Appeal only if some assistance/ instructions are needed/ required from Applicant's/ Department's end.

c) However, the then Sr. Standing Counsel neither made aware nor communicated the status of the aforesaid appeal allocated to him, that the same was lying in defect. It is humbly submitted that the Department has taken serious note of the past situation and has put up a standard operating procedure (SOP) in place so that there is no deficiency in filing and listing of appeals and also to ensure that no such situation arises in future.

d) It is only in the month of August, 2015 in pursuance to order dated 20.08.2015 passed by this Hon'ble Court in I.T.A. No. 143/2013 that the Department has been shocked to know that there are large number of appeals which have been

> marked as defective and yet to be listed. The present appeal is one of such Appeals."

3. It is also stated in the application that in the aforementioned circumstances, "the Applicant had to restructure the entire Appeal to ensure that the same is in order, including typing of dim/ illegible annexures."

4. None of the above reasons can justify the extraordinary delay of 910 days in re-filing the appeal. After the appeal was initially filed on 20th August 2014, the Department actually forgot about it entirely. It is not possible to accept that no one in the Department followed up on the filing of appeals and allowed a period of over two and a half years to elapse before the appeal could be re-filed. The Department has a cell in the High Court which is under the supervision of a Deputy CIT. He ought to be keeping track of the filing of appeals and should be able to know if any appeal entrusted to the panel counsel for filing has not been listed even once before the Court for a long time.

5. The court is not convinced by the reasons given for the delay of 910 days in re-filing the appeal. The application for condonation of delay is dismissed.

**ITA No. 241 of 2017**

6. The appeal is, accordingly, dismissed.

**S.MURALIDHAR, J**

**CHANDER SHEKHAR, J**

**APRIL 19, 2017/**b