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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 4174/2017

TRANS BHARAT AVIATION PVT LTD

..... Petitioner

Through: Mr. V.K. Gautam with Mr. Amir Zafar
Khan, Advocates.

versus

PRINCIPAL COMMISSIONER OF SERVICE TAX

DELHI – I

..... Respondent

Through: Mr. Sanjeev Narula, Senior Standing
counsel with Mr. Abhishek Ghai, Advocate.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE CHANDER SHEKHAR

ORDER

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15.05.2017

CM APPL 18315/2017 (for exemption)

1. Allowed subject to all just exceptions.

WP (C) 4174/2017 & CM APPL 18314/2017 (for stay)

2. The present writ petition is directed against the impugned order dated 2nd August 2016 followed by Corrigendum dated 23rd September 2016 issued by the Principal Commissioner of Income Tax, Delhi-I.

3. At the outset it is noticed that the impugned order is an appealable one. When enquired why the Petitioner has not filed an appeal and has instead chosen to file the present petition, learned counsel for the Petitioner volunteered that the impugned order was violative of the principles of natural justice and the matter had to be remanded to the adjudicating

authority.

4. The Court notes that the above ground can well be urged before the Appellate Authority. It is also seen that the Petitioner has waited for nearly nine months to challenge the impugned order. When asked to explain the laches in approaching this Court, learned counsel for the Petitioner stated that considerable time was taken for collection of all the relevant documents. The Court is not satisfied with the above reply. There is nothing on record to persuade this Court to exercise its discretionary jurisdiction under Article 226 of the Constitution of India.

5. It is clarified that the dismissal of the present petition will not preclude the Petitioner from availing the statutory remedy of an appeal available to it in accordance with law. The delay in approaching the Appellate Authority, if sought to be explained by the Petitioner with reference to the pendency of the present petition, will be considered on merits by the concerned forum.

6. The petition is disposed of in the above terms. The pending application also stands disposed of.

S.MURALIDHAR, J

CHANDER SHEKHAR, J

MAY 15, 2017

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