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

\+ **W.P.(C) 10524/2017 & CM Nos.43099-43100/2017**

PRINCIPAL COMMISSIONER OF INCOME TAX, DELHI-2, ... Petitioner

Through: Mr. Rahul Kaushik, Senior Standing Counsel.

versus

CASIO INDIA CO. PRIVATE LTD. ..... Respondent

Through: None.

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MS. JUSTICE PRATHIBA M. SINGH

<u>O R D E R</u>

% 27.11.2017

The impugned order by the Income Tax Appellate Tribunal (for short 'ITAT'), extending the stay of recovery for six months, was passed on 4th November, 2016. More than one year has passed. We are not aware whether the appeal has been disposed of or is still pending.

2. The impugned order records that the respondent/assessee was not at fault and has not delayed the disposal of the appeal. The writ petition does not record facts and reasons for delay of disposal of the appeal. Copy of the adjournment orders passed by the ITAT are not on record.

3. The ITAT has relied upon judgment of this Court in ***Pepsi Foods Pvt. Ltd. & Ors. v. Assistant Commissioner of Income Tax & Ors., (2015) 376 ITR 87 (Del)*** striking down the third proviso to Section 254 (2A) of the Income Tax Act, 1961 as constitutionally invalid.

4. In view of the aforesaid position, we are not inclined to issue notice in

the present writ petition and the same is dismissed.

5. Miscellaneous applications are disposed of as infructuous.

SANJIV KHANNA, J

PRATHIBA M. SINGH, J

NOVEMBER 27, 2017/*dk*