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

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**ITA 880/2016**

PR. COMMISSIONER OF INCOME TAX-3

..... Appellant

Through: Mr. Zoheb Hossain, Senior Standing  
Counsel.

versus

DIANA BUILDERS & CONTRACTORS PVT.

LTD.

..... Respondent

Through: Mr. Prakash Kumar and Mrs. Rashmi  
Singh, Advocates.

**CORAM: JUSTICE S. MURALIDHAR  
JUSTICE NAJMI WAZIRI**

**ORDER**

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**17.04.2017**

**CM No. 45115/2016 (for exemption)**

1. Allowed, subject to all just exceptions.

**CM No. 45116/2017 (for condonation of delay of 436 days in re-filing  
the petition) & ITA 880/2016**

2. There is an inordinate delay of 436 days in re-filing the appeal.

3. The Court finds that the standard excuse that the Department is putting  
forth in all such applications for condonation of delay in re-filing the appeal

is two-fold. The first is regarding the budgetary constraints of the Department which delayed payment of the differential court fees as a result of the Court Fees Delhi Amendment Act, 2012 which came into force on 1<sup>st</sup> August 2012. The second is regarding the practice directions issued by the Court pertaining to filing of soft copies of the paperbooks in tax matters.

4. The first ground is entirely unconvincing. Much prior to the initial filing of the appeal, the Court Fees Act applicable to Delhi stood amended. As regards the second ground, again sufficient advance notice had been given to the litigants and Advocates about the filing of soft copies of the paperbooks. Further, the Registry of the Court had made appropriate arrangements for scanning services at the filing counters to facilitate the making of soft copies so that the inconvenience if any caused to the Advocates and the litigants is minimised. In any event the change could not have entailed a delay of more than 436 days. Learned counsel for the Appellant pointed out a third reason. The change of Standing counsel for the Department. This again, does not impress the Court.

5. It is not possible to accept that no one followed up on the filing of appeals and allowed a period of more than 436 days 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.

6. The application for condonation of the delay of 436 days in re-filing the

appeal is dismissed. Accordingly, the appeal is dismissed.

**S. MURALIDHAR, J**

**NAJMI WAZIRI, J**

**APRIL 17, 2017**  
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