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

\+ ITA 1088/2017

DHARMENDRA KUMAR ..... Appellant
Through : Sh. S. Krishnan, Advocate.

versus

PR. COMMISSIONER OF INCOME TAX ..... Respondent
Through : Sh. Zoheb Hossain, Senior Standing Counsel.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE SANJEEV SACHDEVA

O R D E R

% 29.11.2017

Issue notice. Sh. Zoheb Hossain, Senior Standing Counsel accepts notice.

With consent, the appeal was heard finally.

The narrow ground on which the assessee has approached this Court under 260A of the Income Tax Act, 1961 is that his appeal to the Income Tax Appellate Tribunal (ITAT) was rejected on the ground that it was time-barred by 25 days.

Learned Counsel for the Revenue points-out that the ITAT discussed the merits of the case and found that there was no basis for the assessee to contend that his assessment was completed without appropriate hearing. The impugned order contains seven paragraphs; six paragraphs are devoted to the reasoning as to why the appeal to the ITAT did not deserve to be entertained. Thereafter, in the seventh paragraph, in 4-5 sentences as it were, the ITAT proceeded to examine the merits of the appeal and decided the merits in one stroke.

The Court is of the opinion that this approach is not justified given the short delay of less than a month. The ITAT should have taken the larger interest of justice into account and considered the appeal on merits rather than dismissing it. For these reasons, the impugned order is set-aside; the delay in filing the appeal is hereby condoned.

The matter is restored to the file of the ITAT which shall proceed to deal with it on merits and render decision in accordance with law. The appeal is allowed in the above terms.

S. RAVINDRA BHAT, J

SANJEEV SACHDEVA, J

NOVEMBER 29, 2017/ajk