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

\+ ITA 923/2018 & C.M.No.34407/2018

THE PR. COMMISSIONER OF INCOME TAX -06..... Appellant
Through Mr. Ruchir Bhatia, Advocate.

versus

MARUTI SUZUKI INDIA LTD. ..... Respondent
Through Ms. Kavita Jha and Mr. Devika Jain, Advocates.

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE CHANDER SHEKHAR

O R D E R

% 27.08.2018

The issue raised in the present appeal is covered by decision of the Delhi High Court in ***Pepsi Foods Pvt. Ltd. Vs. Assistant Commissioner of Income Tax*** (2015) 376 ITR 87 (Del.).

The impugned order passed by the Income Tax Appellate Tribunal on 31st January, 2018 had extended the stay for six month till 31st July, 2018 or decision of the appeal which ever was earlier. The present appeal was preferred in August, 2018, i.e. after the stay order had ceased to be effective.

Further, the impugned order states that the Revenue had sought a number of adjournments before the Tribunal and, therefore, it was necessary to extend the stay. Conduct and repeated requests for adjournment by the Departmental Representatives would only fortify and justify the contention of the respondent-assessee. Revenue cannot pray and ask for adjournments before the Tribunal and then file an appeal for vacation of stay on account of delay in disposal. There is contradiction in the stand of the Revenue. Perhaps the Tribunal should have declined the requests for adjournment and heard and decided the appeal ex-parte.

For reasons stated, we do not find merit in the present appeal. Accordingly, we are not inclined to issue notice on the application for condonation of delay of 37 days. The appeal and the application for condonation of delay are dismissed.

SANJIV KHANNA, J.

CHANDER SHEKHAR, J.

AUGUST 27, 2018
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