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

\+ ITA 1404/2018

THE PR. COMMISSIONER OF INCOME TAX -3..... Appellant

Through: Mr. Ruchir Bhatia, Sr. Standing Counsel with Mr. Puneet Rai, Jr. Standing Counsel with Mr.Sanampreet Singh, Adv.

versus

DELHI TRANSCO LTD. ..... Respondent

Through:

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

O R D E R

% 07.12.2018

CM APPL. No 51376/2018 (Delay of 35 days in filing) and CM APPL. No. 51377/2018 (Delay of 315 days in re-filing) and ITA No. 1404/2018

Before issuing notice in the applications for condonation of delay in filing and delay in re-filing, we deem it appropriate to hear counsel for the Revenue on merits.

Learned standing counsel for the Revenue accepts that additions made were Revenue neutral for Rs. 16.82 crores was offered and taxed in the assessment year 2006-07.

The respondent-assessee had returned loss income for the assessment year in question i.e. 2005-06. Even the assessment order in spite of addition was framed at a loss.

On merits, i.e., whether income accrued, the Tribunal had referred to the fact that NTPC has preferred an appeal before the High Court of Delhi against the decision of Central Electricity Regulatory Council. In these circumstances the right to receive had not accrued. Certainly, payment was not received or paid.

In the aforesaid circumstances, we are not issuing notice on the applications for condonation of delay in filing and re-filing. Consequently, the applications and the appeal would be treated as dismissed.

SANJIV KHANNA, J.

ANUP JAIRAM BHAMBHANI, J.

DECEMBER 07, 2018/*uj*