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

\+ **ITA 794/2019**

PR. COMMISSIONER OF INCOME TAX(CENTRAL)-3, DELHI

..... Appellant

Through: Mr. Ajit Sharma, Senior Standing Counsel with Ms. Adeeba Mujahid, Advocate.

versus

M/S. RADICO NV DISTILLERIES MAHARASHTRA LTD

..... Respondent

Through: Mr. Gaurav Jain, Advocate with Mr. Aniket D. Agrawal, Advocate.

CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI
HON'BLE MR. JUSTICE SANJEEV NARULA

O R D E R

% 03.09.2019

CM APPL. 39461/2019 (application for condonation of delay of 36 days in re-filing the appeal)

1. By this application the applicant seeks condonation of delay of 36 days in re-filing the appeal. For the reasons stated in the application, the delay is condoned.

2. The application stands disposed of in the aforesaid terms.

CM APPL. 39460/2019 (application for condonation of delay of 55 days in filing the appeal)

3. Issue notice. Learned counsel for the Respondent accepts notice and he does not oppose the application.

4. Accordingly, delay in filing the appeal is condoned.

5. The application stands disposed of in the aforesaid terms.

ITA 794/2019

6. Issue notice. Learned counsel for the Respondent accepts notice.

7. Attention has been drawn to the order passed by this Court in a similar ITA No. 729/2019 on 06.08.2019 in relation to the Assessment Year 2009-10 which reads as under:

> "**CM APPL. 35302/2019 (delay)**
>
> 1. For the reasons explained in the application, the delay in filing the appeal is condoned and the application is allowed.
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> **ITA 729/2019**
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> 2. The Revenue is in appeal against the order dated 17th December 2018 passed by the ITAT in ITA No.4360/Del/2015 for the Assessment Year 2009-10.
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> 3. The Revenue is aggrieved only to the extent that after noting that during the pendency of the appeal before the ITAT, the order of the Income Tax Settlement Commission ('ITSC') rejecting the Assessee's settlement application had been set aside by this Court by an order dated 9th October 2017 in WP (C) 3373 of 2013, the ITAT instead of disposing of the appeals as having become infructuous stated that it was allowing the appeals thereby setting aside the assessment orders as well as the orders of the CIT (A) in the matter.
>
> 4. The Court finds no reason to entertain the appeal as it is sufficient to clarify that the ITAT, having noted the subsequent developments which resulted in the Assessee's settlement application being revived before the ITSC should have simply disposed of the orders as having become infructuous. It is clarified that the further proceedings would depend on the outcome of the proceedings before the ITSC. It is further clarified that this Court has not expressed any opinion on the merits of the contentions of the parties.
>
> 5. The appeal is accordingly disposed of."

8. The present appeal relates to the Assessment Year 2008-09 and we dispose of the same in terms of the order dated 06.08.2019 passed in ITA No. 729/2019.

VIPIN SANGHI, J

SANJEEV NARULA, J

SEPTEMBER 03, 2019

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