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

\+ ITA 809/2019

THE PR. COMMISSIONER OF INCOME TAX -6 ..... Appellant
Through: Mr. Ruchir Bhatia, Adv.

versus

METSO MINERALS (INDIA) PVT. LTD. ..... Respondent
Through: Smt. Premlata Bansal, Sr. Adv. with Mrs. Rachana Swahney and Mr.Abhishek Kumar, Advs.

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

O R D E R

% 06.09.2019

C.M. No. 40078/2019 (Delay)

1. Issue Notice. Mrs. Rachana Swahney, learned counsel for the respondent accepts notice.

2. By way of this application, the appellant seeks condonation of 20 days delay in filing of the present appeal. Mrs. Bansal, Sr. Counsel states that the delay is in fact 59 days.

3. Be that it as may, we condone the delay and the application stands disposed of.

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4. The present appeal has been preferred under Section 260A of the Income Tax, 1961 (hereinafter referred to as 'the Act') against the order dated 18.01.2019 passed by the Income Tax Appellate Tribunal (hereinafter referred as 'the Tribunal') in I.T.A. No. 6681/Del/2014 for Assessment Year

2010-11. The Assessing Officer had disallowed the expenditure to the tune of Rs.2,19,48,179/- which was $1/10^{th}$ of total expenditure claimed of Rs.21,94,81,778/- on the ground that the Assessee had not maintained separate records in relation to the element of personal use expenditure.

5. The CIT (Appeals) as well as ITAT had reversed the said finding of fact on appreciation of evidence. In view of the concurrent and consistent finding of fact on the orders of the CIT (Appeals) as well as ITAT, we are not inclined to interfere with the same as the issue raised by the appellant is purely factual and no question much less substantial question of law arises on that aspect.

6. The Assessing Officer had also disallowed the interest to the tune of Rs.1,38,24,367/- under Section (36)(1) (iii) of the Act. In this respect as well upon appreciation of evidence, learned CIT (appeals) and ITAT had reversed the finding and set aside the said disallowances made by the Assessing Officer. The ground of challenge on this aspect is again purely factual.

7. For the abovesaid reasons, we are of the view that no questions arises for the consideration since the issue raised is purely factual, the appeal is accordingly, dismissed.

VIPIN SANGHI, J

SANJEEV NARULA, J

SEPTEMBER 06, 2019

Pallavi