$~8

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

\+ **ITA 522/2018**

PRINCIPAL COMMISSIONER OF INCOME TAX-1..... Appellant
Through: Mr.Ruchir Bhatia, Senior Standing Counsel.

versus

M/S AVANTHA REALTY LTD. ..... Respondent
Through: None.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE REKHA PALLI

<u>O R D E R</u>

% **07.05.2019**

<u>CM No.17777/2018 & 17778/2018</u>

1. For the reasons stated in the application, delay in filing and re-filing the appeal is condoned. The applications stand disposed of.

<u>ITA 522/2018</u>

2. Despite service, none appears for the Respondent.

3. A short question arises for consideration in the present appeal by theRevenue, which is directed against an order dated 14^{th} July, 2017 passed by the Income Tax Appellate Tribunal ('ITAT') in ITA No.895/Kol/2014 for the Assessment Year (AY) 2009-2010.

4. **Admit**.

5. The following question of law is framed for consideration:

> "Whether in the facts and circumstances of the case, the ITAT erred in law in dismissing the appeal of the Revenue on the ground of delay of 19 days in filing of the appeal?"

6. The appeal filed by the Revenue against the order dated 16th January, 2014 passed by the CIT (A) was indeed filed with delay of 19 days. The ITAT was not satisfied with the explanation offered in the Revenue's affidavit in support of the application for condonation of delay.

7. A delay of 19 days can by no means be said to be extraordinary. The explanation offered in the Revenue's aforementioned affidavit appears to be plausible and merits acceptance.

8. For the aforementioned reasons, the impugned order of the ITAT is set aside. The appeal is disposed of. ITA No.895/Kol/2014 is restored to the file of the ITAT and will be listed before the ITAT for directions on 1st July, 2019. The ITAT shall proceed with the said appeal on merits after ensuring service of notice upon the Assessee.

S.MURALIDHAR, J.

REKHA PALLI, J.

MAY 07, 2019

gm