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

+ ITA 214/2019

THE PR. COMMISSIONER OF INCOME TAX -6 ..... Appellant

Through: Mr.Ruchir Bhatia, Advocate.

versus

NDTV MEDIA LTD. ..... Respondent

Through: Mr.Sachit Jolly, Advocate.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE I.S.MEHTA

O R D E R

% **20.03.2019**

CM APPL No.10404/2019 (delay) in ITA 214/2019

1. There is a delay of 1126 days in re-filing the appeal. The explanation offered is the standard one regarding the practice directions issued by this Court for e-filing of the appeals. As has already been observed by this Court in several orders, the practice directions were issued after consultation with the bar and after giving sufficient time for the bar to get acquainted with the requirement of e-filing. Additionally, the Court has also provided scanning machines at the filing counter so that no difficulty is caused to the bar for switching over to the system of e-filing. In any event, the delay of over three years on this ground is wholly unacceptable. Consequently, the Court is not persuaded to condone the extraordinary delay of 1126 days in re-filing the appeal.

2. The application for condonation of the delay of 1126 days in re-filing the appeal is dismissed.

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3. Nevertheless the appeal has also been examined on merits.

4. This appeal by the Revenue is directed against the order dated 10th July 2015 passed by the Income Tax Appellate Tribunal (ITAT) in ITA No. 886/Del/2012 for Assessment Year (AY) 2007-08.

5. The issue raised in ITA No. 214/2019 concerns the disallowance by the Assessing Officer (AO) of the expenses incurred by the Assessee on account of the Employees Stock Option Plan ('ESOP'). The ITAT reversed the AO and deleted the disallowance in light of the decision of the Special Bench of the ITAT (Bangalore) in ***Biocon Limited v. DCIT (LTU), Bangalore (2013) 144 ITD (Bang.)(SB)***.

6. As far as this issue is concerned, it is pointed out by the learned counsel for the Assessee that the issue stands covered in favour of the Assessee and against the Revenue by the order of this Court dated 18th August, 2015 in ITA No.107/2015 ***(Commissioner of Income Tax v. Lemon Tree Hotels).*** The Court had affirmed the order of the ITAT deciding the issue in favour of the Assessee in the said case where the addition made by the AO by way of disallowance of the expenses debited as cost of ESOP in profit and loss account was deleted by the ITAT.

7. The impugned order of the ITAT is consistent with what has been held by this Court in ***Commissioner of Income Tax v. Lemon Tree Hotels*** (*supra*).

8. Consequently, the impugned order of the ITAT does not give rise to any substantial question of law.

9. The appeal is accordingly dismissed both on account of delay in refiling the appeals as well as on merits.

S. MURALIDHAR, J.

I.S.MEHTA, J.

MARCH 20, 2019
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