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

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Decision delivered on: 21.07.2023

+ **ITA 391/2023 & CM APPL. 36757/2023**

COMMISSIONER OF INCOME TAX
(EXEMPTIONS) DELHI

..... Appellant

Through: Mr Abhishek Maratha, Sr Standing
Counsel with Mr Akshat Singh,
Standing Counsel.

versus

GS1 INDIA (FORMERLY EAN INDIA) Respondent

Through: Mr Rishabh Sancheti and Ms
Padmpriya, Advs.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MR. JUSTICE GIRISH KATHPALIA

[Physical Hearing/Hybrid Hearing (as per request)]

RAJIV SHAKDHER, J. (ORAL):

**CM No.36757/2023 [Application filed on behalf of the appellant seeking
condonation of delay of 300 days in re-filing the appeal]**

1. This is an application moved on behalf of the appellant/revenue,
seeking condonation of delay in re-filing the appeal.

1.1 According to the appellant/revenue, there is a delay of 300 days.

2. Mr Rishabh Sancheti, who appears on behalf of the
respondent/assessee, says that he does not oppose the prayer made in the
application.

3. Accordingly, the application is disposed of.



ITA 391/2023

4. This appeal concerns Assessment Year (AY) 2013-14.

5. *Via* this appeal, the appellant/revenue seeks to assail the order dated 06.08.2021 passed by the Income Tax Appellate Tribunal [in short, “Tribunal”].

6. Mr Sancheti says that Supreme Court has considered whether the activities carried out by the respondent/assessee fall within the ambit of proviso to Section 2(15) of the Income Tax Act, 1961 [in short, “Act”], in *Assistant Commissioner of Income Tax (Exemptions) v. Ahmedabad Urban Development Authority*, 2022 INSC 1112, concerning several other assesses (including the respondent/assessee),

6.1 Therefore, Mr Sancheti says that he would have no objection if the impugned order passed by the Tribunal is set aside, in terms of paragraph 253.E.2 of the aforesaid judgment.

6.2 For the sake of convenience, the said portion of the aforesaid judgment is extracted hereafter :

“E.2 It is held that though GS1 India is in fact, involved in advancement of general public utility, its services are for the benefit of trade and business, from which they receive significantly high receipts. In the circumstances, its claim for exemption cannot succeed having regard to amended Section 2(15). However, the Court does not rule out any future claim made and being independently assessed, if GS1 is able to satisfy that what it provides to its customers is charged on cost-basis with at the most, a nominal markup.”

[Emphasis is ours]

7. As submitted by learned counsel for the respondent/assessee, the impugned order passed by the Tribunal is set aside, in terms of the above-captioned observations of the Supreme Court, contained in paragraph 253.E.2 of the judgment rendered in *Ahmedabad Urban Development*

***Authority.***

8. The appeal is disposed of, in the aforesaid terms.
9. Parties will act based on the digitally signed copy of the order.

RAJIV SHAKDHER, J**GIRISH KATHPALIA, J****JULY 21, 2023/aj**