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* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Decision delivered on: 02.05.2023

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ITA 249/2023 & CM Nos.22088/2023

PR. COMMISSIONER OF INCOME TAX (CENTRAL)-2. Appellant

Through: Mr Sanjay Kumar, Sr Standing Counsel with Ms Hemlata Rawat and Ms Easha Kadian, Jr Standing Counsels.

versus

AMIT GUPTA

..... Respondent

Through: None.

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.22088/2023 *[Application filed on behalf of the appellant seeking condonation of delay of 2 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 2 days.

2. For the reasons given in the application, the delay is condoned.

3. The application is disposed of, in the aforesaid terms.

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4. This appeal concerns Assessment Year (AY) 2017-18.

5. What is noticed is that, even according to the appellant/revenue, the tax effect in this particular AY is only Rs.14,41,972/-.

6. Needless to state, tax effect has to be ascertained for each AY. This is



evident upon a bare perusal of paragraph 5 of circular no.3/2018 dated 11.07.2018, issued by the Central Board of Direct Taxes (CBDT). For the sake of convenience, the said paragraph is extracted hereafter:

“5. The Assessing Officer shall calculate the tax effect separately for every assessment year in respect of the disputed issues in the case of every assessee. If, in the case of an assessee, the disputed issues arise in more than one assessment year, appeal can be filed in respect of such assessment year or years in which the tax effect in respect of the disputed issues exceeds the monetary limit specified in para 3. No appeal shall be filed in respect of an assessment year or years in which the tax effect is less than the monetary limit specified in para 3. In other words, henceforth, appeals can be filed only with reference to the tax effect in the relevant assessment year. However, in case of a composite order of any High Court or appellate authority, which involves more than one assessment year and common issues in more than one assessment year, appeals shall be filed in respect of all such assessment years even if the tax effect is less than the prescribed monetary limits in any of the year(s), if it is decided to file appeal in respect of the year(s) in which tax effect exceeds the monetary limit prescribed. In case where a composite order/judgement involves more than one assessee, each assessee shall be dealt with separately.”

7. In these circumstances, this appeal is closed in the aforesaid terms.
8. Needless to add, the closure of this appeal will not affect the lodging the appeals by the revenue concerning other AYs, where tax effect is above the prescribed threshold limit.
9. It goes without saying, the question of law raised by the appellant/revenue in this matter is kept open for consideration in an appropriate matter.

RAJIV SHAKDHER, J

GIRISH KATHPALIA, J

MAY 2, 2023

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