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

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Date of decision: 11.05.2023

+ **ITA 271/2023**

THE COMMISSIONER OF INCOME TAX - INTERNATIONAL
TAXATION -3 Appellant

Through: Mr Ruchir Bhatia, Sr. Standing
Counsel with Mr Keshav Garg,
Advocate.

versus

SHERATON INTERNATIONAL LLC Respondent

Through: Mr Divyanshu Agrawal with Ms
Pooja Mittal, Advocates.

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.24354/2023 *[Application filed on behalf of the appellant seeking
condonation of delay of 45 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 45 days.

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

3. Accordingly, the delay is condoned.



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

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5. The above-captioned appeal concerns Assessment Year (AY) 2013-14.

6. The challenge in this appeal is laid to the common order dated 23.09.2022 passed by the Income Tax Appellate Tribunal [in short, “Tribunal”]. The impugned order has been passed in favour of the respondent/assessee.

6.1 The Tribunal, in short, has held that “centralized fee” earned by the respondent/assessee is not taxable. The fee concerns various aspects, such as sales and marketing charges, loyalty programs, reservation charges, technological services, operational services and training programs/human resources.

7. The Tribunal has noted that the issue stands covered by the judgment of the coordinate bench in the case of ***Director of Income Tax v. Sheraton International Inc*** (2009) 178 taxman 84 (Del).

7.1 Furthermore, in the respondent/assessee’s case for other AY, the coordinate bench has followed the same approach i.e., accepted the ratio of the judgment in ***Sheraton International Inc.***

8. In view of the above, according to us, no substantial question of law arises for our consideration.

9. Accordingly, the above-captioned appeal is closed.

10. In view of the fact that the appellant/revenue has preferred an appeal *qua* the judgment rendered by the Division Bench of this court in ***Sheraton International Inc.***, it is made clear that if the appellant/revenue were to



succeed in the said matter, parties will abide by the final decision rendered by the Supreme Court.

11. Parties will act based on the digitally signed copy of the order.

RAJIV SHAKDHER, J

GIRISH KATHPALIA, J

MAY 11, 2023 / tr

