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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Decision delivered on 01.12.2023

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ITA 583/2023**THE COMMISSIONER OF INCOME TAX (INTERNATIONAL TAXATION)-1, NEW DELHI**

..... Appellant

Through: Mr Puneet Rai, Sr. Standing Counsel
with Mr Ashvini Kumar, Mr Rishab
Nangia and Mr Nikhil Jain, Advs.

versus

BBC WORLD DISTRIBUTION LTD

..... Respondent

Through: Mr Salil Aggarwal, Sr. Advocate and
Mr Uma Shankar Gupta, Sr. Advocate
with Ms Sneha Jai Singh, Mr Kaushik
Moitra, Mr Anurag Tandon, Ms
Arunima Nair and Mr Anurag
Singhal, 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 APPL. 53746/2023**

1. Allowed, subject to just exceptions.

CM APPL.53747/2023 *[Application filed on behalf of the
appellant/revenue seeking condonation of delay of 05 days in filing the
appeal]***CM APPL.53748/2023** *[Application filed on behalf of the
appellant/revenue seeking condonation of delay of 96 days in re-filing the*



appeal]

2. These are applications which seek condonation of delay in filing and re-filing.
3. According to the appellant/revenue, there is a delay of 05 days in filing of the appeal and 96 days in re-filing of the appeal.
- 3.1 Mr Salil Aggarwal, learned senior advocate, who appears on behalf of respondent/assessee, says that he would have no objection if the delay in filing and re-filing is condoned.
4. It is ordered accordingly.
5. Accordingly, delay in filing and re-filing in the above-captioned applications is allowed.
6. Consequently, above-captioned applications are disposed of, in the aforesaid terms.

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7. This appeal concerns Assessment Year (AY) 2008-09.
8. *Via* the instant the appeal, the appellant/revenue seeks to assail the order dated 21.11.2022 passed by the Income Tax Appellate Tribunal [in short, “Tribunal”].
9. The Tribunal *via* the impugned order considered two issues.
- 9.1 First, whether the revenue earned from distribution rights transferred by the respondent/assessee in favour of BBC Worldwide (India) Pvt. Ltd. [“BWIPL”] concerning the distribution of the subject channel to cable operators, DTH operators, hotels, etc could be treated as royalty?
- 9.2 Second, whether in the period in issue i.e., AY 2008-09, it had received any distribution fee?
- 9.3 Insofar as the first issue is concerned, it is relevant to note that the



respondent/assessee was granted non-exclusive global rights by BBC World News Ltd.

10. The Tribunal on both counts has ruled in favour of the respondent/assessee.

11. Insofar as the first issue was concerned, the Tribunal has concluded that the distribution fee could not be construed as royalty and hence was not taxable.

12. As far as the second issue is concerned, a finding of fact has been returned, which is that in the period in issue i.e., AY 2008-09, the assessee did not receive any distribution fee and therefore, no profit could be attributed to it.

13. In our view, if one were to take into account the finding of fact returned *qua* the second issue, clearly, no case for interference with the impugned order is made out by the appellant/revenue.

14. According to us, no substantial question of law arises for our consideration.

15. The appeal is accordingly closed.

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

**RAJIV SHAKDHER
JUDGE**

**GIRISH KATHPALIA
JUDGE**

DECEMBER 01, 2023/RV

Click here to check corrigendum, if any