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

% **Decision delivered on: 06.12.2023**

+ **ITA 697/2023**

PRINCIPAL COMMISSIONER OF INCOME TAX-7, DELHI

..... Appellant
Through: Mr Sunil Agarwal, Sr. Standing
Counsel with Mr Shivansh B. Pandya,
Jr. Standing Counsel and Mr Utkarsh
Tiwari, Advs.

versus

M/S TIMEX GROUP INDIA LTD. 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 APPL. 62865/2023

1. Allowed, subject to just exceptions.

**CM Nos.62864/2023 [Application filed on behalf of the appellant seeking
condonation of delay of 42 days in filing the appeal]**

2. This is an application filed on behalf of the appellant/revenue, seeking
condonation of delay in filing the appeal

2.1 According to the appellant/revenue, there is a delay of 42 days in
filing the appeal.

3. Having regard to the period involved, we are inclined to condone the



delay.

4. It is ordered accordingly.

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

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6. This appeal concerns Assessment Year (AY) 2009-10.

7. *Via* the instant appeal, the appellant/revenue seeks to assail the order dated 27.03.2023 passed by the Income Tax Appellate Tribunal [in short “Tribunal”].

8. Mr Sunil Aggarwal, learned senior standing counsel, who appears on behalf of the appellant/revenue, fairly informs us that insofar as the respondent/assessee is concerned, with regard to AY 2010-11, an appeal has been preferred by the appellant/revenue. We are told that the said appeal was numbered as ITA 674/2023. It is submitted that the said appeal came up for hearing on 01.12.2023. It is not disputed by Mr Agarwal that the proposed questions raised in the instant appeal are identical to those that were raised in ITA 674/2023.

9. We have examined the order passed on 01.12.2023. Since there is no contestation that the issue obtaining in the instant matter also arose in ITA 674/2023, this appeal will suffer the same fate.

10. We may note that the core issue which arises in the present appeal is whether the Income Tax Appellate Tribunal [in short “Tribunal”] erred in holding that the Advertising, Marketing, and Promotion expenses did not qualify as international transactions?

11. In this behalf, we had taken recourse to the decision rendered by coordinate benches of this court in *Sony Ericsson Mobile Communications India Pvt. Ltd. v. CIT* (2015) 374 ITR 118 (Del) and *Maruti Suzuki India*



Ltd. v. CIT (2016) 381 ITR 117.

12. Thus, having regard to the aforesaid position, the appeal is closed.

13. We are told that the appellant/revenue has preferred an appeal against the decision rendered in ***Sony Ericsson Mobile Communications India Pvt. Ltd. v. CIT.***

13.1 Having regard to the aforesaid position, it is made clear that if the appellant/revenue were to succeed in the pending Special Leave Petition, it would have liberty to approach the court for revival of the instant appeal.

14. The Registry will dispatch the copy of the order passed today to the respondent/assessee *via* all modes, including email.

RAJIV SHAKDHER, J.

GIRISH KATHPALIA, J.

DECEMBER 6, 2023/as

Click here to check corrigendum, if any