$~1

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

\+ ITA 445/2024

PR. COMMISSIONER OF INCOME TAX-1,
DELHI .....Appellant
Through: Mr. Sanjay Kumar, SSC.

versus

M/S ARAVALI INFRA POWER LTD. .....Respondent
Through: Mr. Somil Agarwal & Mr. Dushyant Agarwal, Advs.

**CORAM:**
**HON'BLE MR. JUSTICE YASHWANT VARMA**
**HON'BLE MR. JUSTICE RAVINDER DUDEJA**

**ORDER**

% **13.09.2024**

**CM APPL. 47213/2024 (60 Days Delay)**
**CM APPL. 47214/2024 (105 Days Delay in Re-filing)**

Bearing in the mind the disclosures made, the delay of 60 in filing the appeal and the delay of 105 days in re-filing the appeal is condoned.

Both the applications shall stand disposed of.

**ITA 445/2024**

1. The Principal Commissioner of Income Tax impugns the order of the Income Tax Appellate Tribunal [**"Tribunal"**] dated 31 August 2023. That order pertained to an appeal instituted and concerning Assessment Year [**"A.Y."**] 2011-2012. The Tribunal had taken note of the view expressed by the Commissioner of Income Tax (Appeals) [**"CIT(A)"**] which had allowed the appeal of the assessee.

2. We take note of the fact that no substantive additions were made and that the entire proceedings were continuing solely on the

basis of the protective additions which had been suggested. The Tribunal thereafter is stated to have repeatedly adjourned the appeal to enable the appellant to obtain appropriate instructions as to whether any final assessment had been framed.

3. Constrained by a failure on the part of the appellants to apprise the Tribunal of whether a final assessment order had in fact been made, the Tribunal proceeded to dismiss the appeal.

4. It becomes pertinent to note that even in the present proceedings, the appellant has been unable to inform us whether any final assessment order has been passed for A.Y. 2011-2012.

5. Since the conceptual distinction between a protective and substantive assessment already stands duly enunciated, we find no justification to entertain the appeal.

6. It consequently fails and shall stand dismissed.

**YASHWANT VARMA, J**

**RAVINDER DUDEJA, J**

**SEPTEMBER 13, 2024**
*sk*