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

\+ ITA 464/2024

PRINCIPAL COMMISSIONER OF INCOME TAX-1.....Appellant

Through: Mr Vipul Agrawal with Mr Gibran Naushad and Ms Sakashi Shairwal, Advocates.

versus

M/S. ALCHEM INTERNATIONAL PVT.LTD. .....Respondent

Through: Dr Rakesh Gupta with Mr Somil Agarwal and Mr Dushyant Agarwal, Advocates.

CORAM:
HON'BLE THE ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

O R D E R

% **06.12.2024**

CM APPLs. 49108-09/2024 (Delay in filing and refiling of the appeal)

1. The Revenue has filed the above-captioned appeal impugning an order dated 18.10.2022 passed by the learned Income Tax Appellate Tribunal (hereafter *ITAT*) in ITA Nos.6068/Del/2017, 6069/Del/2017 and 6070/Del/2017 in respect of Assessment Years (AYs) 2012-13, 2013-14 and 2014-15 respectively.

2. In terms of the impugned order, the learned ITAT rejected the Revenue's appeal against orders passed by the Commissioner of Income Tax (Appeals) [hereafter *CIT(A)*]. The learned ITAT had followed its earlier decision rendered in respect of AYs 2006-07 to 2009-10.

3. In the present case, there has been an inordinate delay on the part of

the Revenue in filing the present appeal. The Revenue seeks condonation of delay of 417 days in filing the appeal. It states that the delay in filing of appeal has arisen due to *bona fide* circumstances, without any fault or negligence on the part of the Revenue. The only explanation as set out for the delay is that the appeal had to be proposed through the official channel/hierarchy and several other compliances were required to be satisfied by the AO, which had caused the delay.

4. The averments made in the application do not clearly explain the inordinate delay in filing the present appeal. We consider it apposite to refer to the following observations of the Supreme Court in the case of ***Postmaster General v. Living Media India Ltd.*, (2012) 3 SCC 563:**

> *" 29. In our view, it is the right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bona fide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red tape in the process. The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for the government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few.*
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> *30. Considering the fact that there was no proper explanation offered by the Department for the delay except mentioning of various dates, according to us, the Department has miserably*

failed to give any acceptable and cogent reasons sufficient to condone such a huge delay. Accordingly, the appeals are liable to be dismissed on the ground of delay."

5. In the present case, the applications for condonation of delay are bereft of particulars that have resulted in the delay. Merely stating that "the appeal has to be processed through the official channel/hierarchy" cannot be accepted as a sufficient cause for preventing the filing of appeal within time.

6. This court has also enquired whether any appeal was preferred against the order passed by the learned ITAT in respect of the AYs 2006-07 to 2009-10. In this regard, the learned counsel appearing for the Revenue submits that the appeals have been preferred against the orders dated 07.12.2021, however, the same have not been listed as they are lying in defect. He is unable to point out whether the said appeals were filed within time. However, he states that at least for the past one year the appeals have been lying in defect.

7. Considering the explanation provided by the Revenue, we are not persuaded to allow the present application for condonation of delay in filing the appeal. The applications are accordingly dismissed.

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8. Consequently, the appeal preferred by the Revenue is also rejected as barred by limitation.

ACTING CHIEF JUSTICE

TUSHAR RAO GEDELA, J

DECEMBER 06, 2024/tr