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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **ITA 31/2024**
PRINCIPAL COMMISSIONER OF INCOME TAX DELHI -
10 Appellant

Through: Mr.Abhishek Maratha,
Mr.Parth Sarval and Ms.Nupur
Sharma, Advs.

versus

V L JEWELLERS Respondent
Through: Mr.S.Krishnan, Adv.

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE PURUSHAINDR KUMAR
KAURAV

ORDER
11.01.2024

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CM APPL. 1878/2024(Condonation of delay in filing the present appeal)

This is an application filed by the appellant seeking condonation of delay of 38 days in filing the present appeal.

For the reasons stated in the application, the delay of 38 days in filing the appeal is condoned.

Application is disposed of.

CM APPL. 1879/2024(Condonation of delay in re-filing the appeal)

This is an application filed by the appellant seeking condonation of delay of 35 days in re-filing the present appeal.

For the reasons stated in the application, the delay of 35 days in re-filing the appeal is condoned.

Application is disposed of.

ITA 31/2024

1. Having heard learned counsels for parties, we find that the



Income Tax Appellate Tribunal [“ITAT”] on a due consideration of the facts has come to the following conclusion:-

"24. The principle laid down by the above decisions squarely applies to the facts of the assessee's case. The Ld. Pr.CIT in order to hold the assessment order as erroneous and prejudicial to the interest of the Revenue should make enquiries himself pointing out the error or omission on the part of the Assessing Officer in conducting the enquiries. On a reading of the order of the Ld. Pr.CIT it is observed that no such exercise has been done by the Ld. Pr.CIT before concluding that the order passed by the Assessing Officer is erroneous and prejudicial to the interest of the Revenue. The assessee has furnished explanations along with all evidences before the Ld. Pr.CIT and the Ld. Pr.CIT failed to point out the deficiencies in conducting the enquiries by the Assessing Officer. The Ld. Pr.CIT in the order observes that the assessee has failed to prove the source of cash deposits of Rs.65, 92,000/- in its bank account during the period of demonetization, neither the Assessing Officer had asked for the source of cash deposits during the assessment proceedings nor had assessee provided any details ignoring the fact that the Assessing Officer specifically called for the details in the specified format as per the CBDT Circular to examine the cash deposits made by the assessee and the assessee had given a detailed reply explaining the circumstances and the sources for cash deposits by producing details of purchases, sales, cash, book, stock registers, VAT return etc., and the increase in demand of gold during that period being wedding season when compare to the corresponding previous year. All these details and explanation were also produced before the Ld. Pr.CIT, however, the Ld. Pr.CIT in her order observed that even during the revision proceedings assessee has failed to provide the documentary evidences to prove its contention which is entirely contrary to record. The Ld. Pr.CIT had made no efforts to examine the evidences and replies furnished by the assessee explaining the anomalies pointed out by the Ld. Pr.CIT. On a reading of the order of the Ld. Pr.CIT, we see that the Ld. Pr.CIT set aside the assessment order as erroneous and prejudicial to the interest of the Revenue directing the Assessing Officer for making fresh enquiries and to consider the cash sales under the purview of section 68/69 of the Act on the pretext that there was no enquiry by the Assessing Officer in the course of assessment proceedings simply stating that the AO had not called for the details and assessee had not furnished evidences and explanations regarding cash deposits and the sources of funds introduced as capital by the partners, which is not permissible under law."

2. In view of the aforesaid, we find that the appeal raises no



substantial question of law.

3. Consequently, the appeal shall stand dismissed on the aforesaid terms.

YASHWANT VARMA, J.

PURUSHAINDR KUMAR KAURAV, J.

JANUARY 11, 2024/MJ