



#27 & 28

%10.08.2009

Present: Mr. Salil Kapoor for the appellant  
Mr. Subhash Bansal for the respondent

**+CM NO. 2954/2009 (condonation of delay) in ITA NO. 318/2009**  
**CM NO. 297/2009 to be numbered (condonation of delay) in ITA NO.**  
**318/2009**

\*

Learned counsel for the appellant submits that the present appeal is against the order dated 29.8.2008 which was received on 12.9.2008. Therefore, if the present appeal is confined to the challenge of the aforesaid order there is no delay.

In view of the statement, this application is disposed of.

**ITA No. 318/2009 & ITA NO. 297/2009**

The appellant has filed this appeal against the orders dated 29.8.2008 whereby the Tribunal has rejected the application of the appellant to urge two additional grounds mentioned therein. Order in question is an interim order. Appeal is yet to be decided. We also note that similar application preferred by the appellant for urging these additional grounds was rejected by the Tribunal vide its order dated 14.7.2008. Therefore, dismissal of the second application on this ground that first application had already been rejected would not be improper. We may also note that if appeal is



decided against the assessee, it would always be permissible to the assess  
to challenge the final order by way of appeal under Section 260A of the  
Income Tax Act and take up the ground that he should have been allowed to  
urge the aforesaid additional grounds. Therefore, it is not necessary to  
entertain this appeal at this stage. Accordingly this particular appeal is  
dismissed.

  
A.K. SIKRI, J

  
VALMIKI J. MEHTA, J

August 10, 2009

aj