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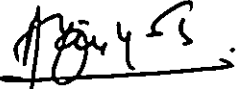
Present: Ms. Sonia Mathur for the appellant.

+ ITA No. 1276/2009 & CM No. 17003/2009

Learned counsel for the Revenue submits that the ITAT dismissed the appeal only on the ground that COD approval was not obtained by the Income Tax department, which is factually incorrect as COD approval had been obtained. This fact is stated on the affidavit.

In these circumstances, we are of the opinion that the appellant may file an application before the ITAT for recall of the order along with copy of the COD approval, if not already filed. If the contention of the appellant is correct and COD approval has, in fact, been obtained, the Tribunal shall recall the order and hear the matter on merits.

This appeal stands disposed of in the aforesaid terms. CM No. 17003/2009 is also disposed of.


A.K. SIKRI, J.


SIDDHARTH MRIDUL, J.

December 04, 2009
nsk