



\$~19

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

+ **ITA 123/2023 & CM Nos.10446-47/2023**

PRINCIPAL COMMISSIONER OF  
INCOME TAX-4 DELHI

..... Appellant

Through: Mr Abhishek Maratha, Sr Standing  
Counsel.

versus

RIAZ MUNSHI

..... Respondent

Through: None.

**CORAM:**

**HON'BLE MR. JUSTICE RAJIV SHAKDHER**

**HON'BLE MS. JUSTICE TARA VITASTA GANJU**

**ORDER**

%

**03.03.2023**

[Physical Hearing/Hybrid Hearing (as per request)]

**CM No.10447/2023**

1. Allowed, subject to the appellant filing legible copies of the annexures, at least three days before the next date of hearing.

**ITA 123/2023 & CM No.10446/2023 [Application filed on behalf of the appellant seeking condonation of delay of 232 days in filing the appeal]**

2. Mr Abhishek Maratha, who appears on behalf of the appellant/revenue, says that he will place the case papers which were filed before the statutory authorities on the record of this court.

2.1 Leave in that behalf is granted.

3. Briefly, the case of the appellant/revenue is that the long term capital

ITA 123/2023

page 1 of 2



gain said to have registered by the respondent/assessee concerns scrips of a penny stock company, namely, Esteem Bio Organic Food Processing Ltd. [hereafter referred to as “EBFPL”].

4. We may note that the tax impact in the instant appeal is, concededly, below the prescribed threshold limit.

5. Mr Maratha says that this appeal is sustainable because EBFPL is a penny stock company.

5.1. Admittedly, the finding of the Income Tax Appellate Tribunal [in short, “Tribunal”] is to the contrary. The appellant/revenue will have to satisfy the Court as regards the viability of the appeal on both counts i.e., delay and the exception adverted to by Mr Maratha.

6. List the matter on 27.04.2023.

**RAJIV SHAKDHER, J**

**TARA VITASTA GANJU, J**

**MARCH 3, 2023**

aj

*[Click here to check corrigendum, if any](#)*