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

+ **ITA 132/2023**

SHOURYA TOWERS PVT LTDAppellant

Through: Mr Ruchesh Sinha, Adv.

versus

PR COMMISSIONER OF INCOME TAXRespondent

Through: Mr Ruchir Bhatia, Sr Standing Counsel.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORDER

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07.03.2023

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

CM Appl.10885/2023

1. Allowed, subject to just exceptions.

CM Appl.10884/2023

2. The above-captioned application has been filed on behalf of the appellant/assessee seeking condonation of delay in filing the appeal.

2.1 Although the delay appears to be huge, in reality, the delay is not as large as the prayer clause in the application makes it out.

3. The record shows, that after the Income Tax Appellate Tribunal [in short, "Tribunal"] had disposed of the matter on merits *via* order dated 29.08.2017, two miscellaneous applications were filed, which were disposed of on 07.11.2022 and 09.11.2022.

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4. As indicated above, the appellant/assessee had approached this Court against the order passed by the Tribunal in two miscellaneous applications.

4.1 In addition thereto, the record also shows, that against the order dated 29.08.2017, the appellant/assessee had filed an appeal, which was dismissed as withdrawn, as at that stage, the miscellaneous application was pending.

5. Given the aforesaid position, we are inclined to condone the delay.

5.1 It is ordered according.

6. The application is, accordingly, disposed of.

ITA 132/2023 & CM Appl.10886/2023*[Application filed on behalf of the appellant seeking interim relief]*

7. This appeal concerns Assessment Year (AY) 2012-13. *Via* this appeal, the appellant/assessee seeks to assail the following orders:

(i) The order on merits dated 29.08.2017 passed by the Tribunal.

(ii) The order passed by the Tribunal in respect of two miscellaneous applications dated 07.11.2022 and 09.11.2022.

8. We may note, that the appellant/assessee had filed two writ petitions i.e., W.P.(C) 1129/2023 and W.P.(C) 1133/2023. These writ petitions were disposed of on 31.01.2023.

8.1 *Via* these petitions, a challenge was laid to the two orders dated 07.11.2022 and 09.11.2022 passed in two miscellaneous applications before the Tribunal.

9. It is in this background, that the instant appeal has been preferred.

10. We may note, that on merits, broadly, the issue is as to whether Rs.64,72,52,645/- written off by the appellant/assessee as business loss concerning 'Amritsar project' ought to have been deleted or not.

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11. It appears, that the miscellaneous applications were filed to correct what the appellant/assessee construed, as error apparent on record.
12. Counsel for the appellant/assessee says, that the matter should be remanded to the Tribunal for reexamination.
13. This aspect of the matter will be examined, on the next date of hearing.
14. Issue notice.
- 14.1 Mr Ruchir Bhatia, learned senior standing counsel, accepts notice on behalf of the respondent/revenue.
15. List the matter on 24.04.2023.
16. Counsel for the parties will file a short note, not exceeding two pages each, with regard to the core aspect of the matter.

RAJIV SHAKDHER, J

TARA VITASTA GANJU, J

MARCH 7, 2023/pmc

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

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