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

+ ITA 167/2024

THE PR. COMMISSIONER OF INCOME  
TAX -CENTRAL -1

..... Appellant

Through: Mr. Ruchir Bhatia, Sr. Standing  
Counsel.

versus

LUXOR WRITING INSTRUMENTS PVT. LTD.

..... Respondent

Through: Mr. Paritosh Jain, Adv.

**CORAM:**

**HON'BLE MR. JUSTICE YASHWANT VARMA**

**HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR  
KAURAV**

**ORDER**

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**11.03.2024**

**CM APPL. 14516/2024 (42 Days Delay in Re-filing)**

Bearing in the mind the disclosures made, the delay of 42 days in re-filing the appeal is condoned.

The application shall stand disposed of.

**ITA 167/2024**

1. Having heard Mr. Bhatia, learned counsel appearing in support of the appeal as well as Mr. Jain, learned counsel for the respondent, we take note of the following observations that were rendered by this Court in **Logitronics P. Ltd. vs. Commissioner of Income Tax** [2011 SCC OnLine Del 896]:-

“23. In the context of waiver of loan amount, what follows from the reading of the aforesaid judgment is that the answer would depend upon the purpose for which the said loan was taken. If the loan was taken for acquiring the capital asset, waiver thereof would not



amount to any income eligible to tax. On the other hand, if this loan was for trading purpose and was treated as such from the very beginning in the books of account, as per T.V. Sundaram Iyengar and Sons Ltd. (1996) 222 ITR 344 (SC), the waiver thereof may result in the income more so when it was transferred to the profit and loss account.”

2. It is in the aforesaid context that we prima facie find merit in the submission of Mr. Bhatia that the Income Tax Appellate Tribunal [‘ITAT’] has failed to accord due consideration to the aspect of the purpose for which the loan had been received.

3. Consequently, we admit the instant appeal on the following question of law:-

A. Whether on facts and circumstances of the case, the ITAT was justified in relying upon the decision of the Supreme Court in **Commissioner v. Mahindra & Mahindra Limited** [(2018) 16 SCC 79] when the facts which obtained in the case of the assessee were clearly distinguishable?

4. Let the appeal be called again on 20.05.2024.

**YASHWANT VARMA, J.**

**PURUSHAINDRA KUMAR KAURAV, J.**

**MARCH 11, 2024/RW**