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

\+ **ITA 179/2023**
ITA 180/2023
ITA 181/2023
ITA 182/2023
ITA 183/2023

COMMISSIONER OF INCOME TAX EXEMPTION DELHI
..... Appellant

Through: Mr Abhishek Maratha, Sr. Standing Counsel.

versus

IILM FOUNDATION ..... Respondent

Through: Mr Rohit Jain & Mr Aniket D. Agrawal, Advs.

CORAM:
HON'BLE MR JUSTICE RAJIV SHAKDHER
HON'BLE MS JUSTICE TARA VITASTA GANJU

O R D E R

% 24.03.2023

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

CM Appl.14129/2023 in ITA 179/2023
CM Appl.14175/2023 in ITA 180/2023
CM Appl.14202/2023 in ITA 181/2023
CM Appl.14644/2023 in ITA 182/2023
CM Appl.14655/2023 in ITA 183/2023*[Application filed on behalf of the appellant seeking condonation of delay of 209 in re-filing the appeals]*

1. These are applications moved on behalf of the appellant/revenue seeking condonation of delay in re-filing the appeals.

1.1 According to the appellant/revenue, there is a delay of 209 days.

2. For the reasons given in the applications, the delay is condoned.

3. The applications are disposed of, in the aforesaid terms.

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4. Issue notice.

4.1 Mr Rohit Jain, learned counsel, accepts notice on behalf of the respondent/assessee.

5. Mr Jain says that he will file the complete record concerning the Assessment Years (AYs) which are in issue. The statement of Mr Jain has been taken on record.

6. One of the submissions that has been advanced by Mr Abhishek Maratha, senior standing counsel, who appears on behalf of the appellant/revenue, is that additional evidence *qua* Mrs Malvika Rai who was working with the respondent/assessee could not have been accepted by the Income Tax Appellate Tribunal [in short, "the Tribunal"].

6.1 Mr Jain points out that additional evidence was tendered before the Tribunal only *vis-à-vis* Assessment Year (AY) 2007-08.

7. We may note that the above-captioned appeals concern AYs 2007-08 to 2011-12.

8. It is also Mr Jain's contention that additional evidence was, in fact, tendered before the Commissioner of Income Tax Appeals [in short, "CIT(A)"] in respect of AY 2008-09.

8.1 Mr Jain says that in the appeal filed by the appellant/revenue before the Tribunal for this AY, no ground was taken with regard to the acceptance of additional evidence.

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8.2 As a matter of fact, according to Mr Jain, a remand report was called for by the CIT(A), whereupon additional evidence was accepted.

9. Insofar as the remaining AYs are concerned, according to Mr Jain, the evidence which provided the justification for the remuneration paid to Mrs Rai was tendered before the Assessing Officer (AO).

10. It is in this backdrop that we have asked Mr Jain to file the entire record before us.

11. We may also note that the respondent/assessee was in appeal before the Tribunal only *vis-à-vis* AY 2007-08. Insofar as remaining AYs are concerned, the appellant/revenue was in appeal before the Tribunal.

12. List the above-captioned appeals on 12.09.2023.

13. In the meanwhile, counsel for the parties will file their written submissions, not exceeding five pages each, at least five days before the next date of hearing.

RAJIV SHAKDHER, J

TARA VITASTA GANJU, J

MARCH 24, 2023/r

Click here to check corrigendum, if any

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