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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **ITA 208/2023**

THE PR. COMMISSIONER OF INCOME TAX -7..... Appellant

Through: Mr Ruchir Bhatia, Sr. Standing
Counsel with Ms Priya Sarkar, Jr.
Standing Counsel.

versus

YAKULT DANONE INDIA PVT. LTD. Respondent

Through: Mr Somil Agarwal with Mr Anshul
Mittal, Advocates.

CORAM:

HON'BLE MR JUSTICE RAJIV SHAKDHER

HON'BLE MS JUSTICE TARA VITASTA GANJU

ORDER

% **11.04.2023**

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

CM APPL. 17042/2023

1. This is an application moved on behalf of the appellant/revenue seeking condonation of delay in re-filing the appeal.

1.1 According to the appellant/revenue, there is a delay of 263 days.

2. Mr Somil Agarwal, who appears on behalf of the respondent/assessee, says that he does not oppose the prayer made in the application.

3. Accordingly, the delay is condoned.

4. The application is disposed of.

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5. Mr Ruchir Bhatia, learned senior standing counsel, who appears on behalf of the appellant/revenue, says that the sole issue which arises for consideration is: whether the Income Tax Appellate Tribunal [in short,

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“Tribunal”] rightly concluded that this was a case where no international transaction had taken place.

6. To be noted, the Transfer Pricing Officer (TPO), according to Mr Bhatia, has made an upward adjustment concerning AMP amounting to Rs.7,92,58,314/-. It is not in dispute, that the Tribunal, in reaching the aforementioned conclusion had relied upon its decision rendered in the earlier Assessment Year (AY) i.e., AY 2011-2012.

7. Although the counsel for the respondent/assessee says, that no appeal was preferred by the appellant/revenue in respect of the decision taken by the Tribunal concerning AY 2011-2012, Mr Bhatia says that he will return with instructions on this aspect of the matter.

8. List the matter on 16.05.2023.

RAJIV SHAKDHER, J

TARA VITASTA GANJU, J

APRIL 11, 2023 / tr

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