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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **ITA 210/2023**

PR. COMMISSIONER OF INCOME TAX –
CENTRAL -1

.... Appellant

Through: Mr. Ruchir Bhatia, Senior Standing
Counsel.

versus

CHETAN GUPTA

..... Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORDER

% **12.04.2023**

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

CM no.17391/2023

1. This is an application filed by the appellant/revenue for condonation of delay in re-filing the appeal.

1.1 According to the appellant/revenue, there is delay of 262 days.

2. Issue notice to the respondent/assessee via all permissible modes, including e-mail.

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3. This appeal concerns Assessment Year (AY) 2005-2006 and is directed against the order dated 07.09.2021 passed by the Income Tax Appellate Tribunal [in short, "Tribunal"].

3.1 The Tribunal, *via* the impugned order, has set aside the penalty levied on the respondent/assessee amounting to Rs.1,66,16,677/- imposed by the Assessing Officer under Section 271(1)(c) of the Income Tax Act, 1961 [In

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short, “Act”] on the ground that the concerned officer did not indicate under which limb of the said provision, the penalty was leviable on the respondent/ assessee.

4. Concededly, there are two limbs under which penalty can be levied under Section 271(1)(c) of the Act, i.e., concealment of income or furnishing inaccurate particulars.

5. The issue, *prima facie*, seems to be covered by the judgment rendered on 12.07.2021 in ITA No. 57/2011, titled *Principal Commissioner of Income Tax vs. Minu Bakshi*.

6. Issue notice.

7. The order passed today shall accompany the notice which is directed to be served on the respondent/assessee.

8. List the matter on 18.09.2023.

RAJIV SHAKDHER, J

TARA VITASTA GANJU, J

APRIL 12, 2023/tp

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