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

+ **ITA 275/2023**

**THE COMMISSIONER OF INCOME TAX - INTERNATIONAL  
TAXATION -3**

..... Appellant

Through: Mr Ruchir Bhatia, Sr Standing  
Counsel with Mr Shlok  
Chandra and Ms Priya Sarkar,  
Standing Counsel.

versus

**SILVER BELLA HOLDING LTD.**

..... Respondent

Through: Nemo.

**CORAM:**

**HON'BLE MR. JUSTICE RAJIV SHAKDHER**

**HON'BLE MR. JUSTICE GIRISH KATHPALIA**

**ORDER**

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**15.05.2023**

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

**CM Appl.24991/2023 [Application filed on behalf of the appellant seeking  
condonation of delay of 300 days in re-filing the appeal]**

1. This is an application filed on behalf the appellant/revenue, seeking condonation of delay in re-filing the appeal.
2. According to the appellant/revenue, there is a delay of 300 days.
3. Issue notice to the non-applicant/respondent/assessee *via* all permissible modes, including email.
4. List the application on 25.08.2023.

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5. This appeal concerns Assessment Year (AY) 2014-15.

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6. The appellant/revenue seeks to assail the order dated 19.05.2021 passed by the Income Tax Appellate Tribunal [in short, “Tribunal”].

7. The respondent/assessee had challenged the assessment order dated 07.09.2018 passed under Section 143(3) read with Section 144C(13) of the Income Tax Act, 1961 [in short, “Act”], *inter alia*, on the ground that it was barred by limitation.

8. The record shows that the respondent/assessee is in the business of investment and in the process earned interest on investments made in India.

8.1 The record also shows that the respondent/assessee is incorporated and located in Cyprus.

9. The respondent/assessee had offered levy of tax at the rate of 10% on the income earned by way of interest, in terms of India-Cyprus Double Tax Avoidance Agreement [in short “DTAA”].

10. The appellant/revenue seeks to levy tax on the said income earned by the respondent/assessee at the rate of 20%, as per Section 115A of the Act.

11. Broadly, the view taken by the Tribunal is that there is no variation of income, and draft assessment order under Section 144C of the Act was not required to be passed.

12. Mr Ruchir Bhatia, learned senior standing counsel, who appears on behalf of the appellant/revenue, however, contends to the contrary.

12.1 According to Mr Bhatia, the respondent/assessee is an eligible person, and there was variation of income inasmuch the rate at which tax was sought to be imposed by the revenue, i.e., at the rate of 20%, as against the rate offered by the respondent /assessee.



13. *Prima facie*, this submission does not align with the language used in Section 144C of the Act. However, we would like to hear the respondent/assessee on this aspect of the matter, as well.
14. Accordingly, issue notice to the respondent *via* all permissible modes, including email.
15. List the matter on 25.08.2023.

**RAJIV SHAKDHER, J**

**GIRISH KATHPALIA, J**

**MAY 15, 2023/pmc**

*Click here to check corrigendum, if any*

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