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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **ITA 297/2023 & CM No.27432/2023**

PRINCIPAL COMMISSIONER OF INCOME TAX 10.... Appellant

Through: Mr Shailendera Singh, Sr Standing
Counsel with Ms Dacchita Shahi and
Mr Viplav Acharya, Standing
Counsels along with Mr Akash
Saxena, Adv.

versus

VINOD GUGNANI

..... Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MR. JUSTICE GIRISH KATHPALIA

ORDER

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23.05.2023

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

CM No.27432/2023 [*Application filed on behalf of the appellant seeking
condonation of delay of 36 days in filing the appeal*]

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

1.1 According to the appellant/revenue, there is a delay of 36 days

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

3. List the application on 20.11.2023.

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4. This appeal concerns Assessment Year (AY) 2016-17.

5. The appellant/revenue has laid a challenge to the order dated
02.11.2022 passed by the Income Tax Appellate Tribunal [in short,
“Tribunal”].

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6. The record shows that the Assessing Officer (AO) made a disallowance amounting to Rs.5,70,95,075/-, on account of the respondent/assessee failing to make a deposit of the entire amount before the due date prescribed for filing the return, as prescribed under Section 139 of the Income Tax Act, 1961 [in short, “Act”].

7. Both, the CIT(A) and the Tribunal, have ruled against the revenue and in this context, *inter alia*, relied upon the following judgments :

- (i) ***CIT v. K. Ramachandran Rao*** [56 Taxmann.com 163 (Karnataka)].
- (ii) ***Venkata Dilip Kumar Kartha - HUF v. CIT*** [111 Taxman.com 180 (Mad.)]

8. Mr Sanjay Kumar, learned senior standing counsel, who appears on behalf of the appellant/revenue, will inform the court as to whether any appeal is preferred by the appellant/revenue against the aforementioned judgments.

9. The order passed today will accompany the notice which has been directed to be issued to the respondent/assessee in the above-captioned application.

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

11. List the matter on 20.11.2023.

RAJIV SHAKDHER, J

GIRISH KATHPALIA, J

MAY 23, 2023/aj

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