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

+ **ITA 319/2023**

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

Through: Mr Ruchir Bhatia, Sr Standing
Counsel with Mr Pratyaksh Gupta, Jr
Standing Counsel along with Ms
Asha Gupta, Adv.

versus

**THE CHANCELLOR, MASTERS AND SCHOLARS OF THE
UNIVERSITY OF CAMBRIDGE** Respondent

Through: None

CORAM:

HON'BLE MR JUSTICE RAJIV SHAKDHER

HON'BLE MR JUSTICE GIRISH KATHPALIA

ORDER

% **31.05.2023**

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

**CM Appl. 30176/2023 [Application filed on behalf of the appellant seeking
condonation of delay of 55 days in re-filing the appeal]**

1. This is an application filed on behalf of the appellant/revenue seeking condonation of delay.
2. According to the appellant/revenue, there is a delay of 55 days in re-filing the appeal.
3. Given the period involved, we are inclined to condone the same.
4. The application is disposed of, in the aforesaid terms.

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5. This appeal concerns Assessment Year (AY) 2012-13.
6. The appellant has laid a challenge to the order of the Income Tax Appellate Tribunal [in short, "Tribunal"] dated 19.09.2022.

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7. Mr Ruchir Bhatia, learned senior standing counsel, who appears on behalf of the appellant/revenue, says that the Tribunal has only examined one aspect of the matter i.e., whether or not the income received by the respondent/assessee constitutes royalty.

7.1 Mr Bhatia says that the other aspect, which is, whether the income earned by the respondent/revenue would constitute fee for technical services [in short, “FTS”], has not been examined.

8. We may note that the Tribunal has ruled against the revenue by relying upon the judgment of Supreme Court titled *Engineering Analysis Centre of Excellence Pvt. Ltd. vs The Commissioner Of Income Tax, (2021) 432 ITR 471*.

9. As far as the other aspect regarding FTS is concerned, since the grounds preferred by the revenue before the Tribunal are not set out in the impugned order, Mr Bhatia will file the record of the case, that was placed before the Tribunal, prior to the next of hearing.

10. However, to hasten the progress of the appeal, we are inclined to issue notice to the respondent/assessee *via* all modes, including email.

11. It is ordered accordingly.

12. List on 06.11.2023.

RAJIV SHAKDHER, J

GIRISH KATHPALIA, J

MAY 31, 2023 /as

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