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

+ **ITA 356/2023**

PRINCIPAL COMMISSIONER OF INCOME
TAX 4

..... Appellant

Through: Ms Dachhita Shahi, Standing Counsel.

versus

MS NATIONAL FERTILIZERS LTD

..... Respondent

Through: Mr Ved Kumar Jain with Mr Nischay
Kantoor, Advs.

CORAM:

HON'BLE MR JUSTICE RAJIV SHAKDHER

HON'BLE MS JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

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10.07.2023

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

CM Appl.34157/2023

1. Allowed, subject to just exceptions.

CM Appl.34156/2023 [*Application filed on behalf of the appellant/revenue seeking condonation of delay of 459 days in filing the appeal*]

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

3. The period of delay, according to the appellant/revenue is 459 days.

4. We are inclined to condone the delay, for the reasons recorded hereafter i.e., that no substantial question of law arises for our consideration.

5. The application is disposed of in the aforesaid terms.

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6. The above-captioned appeal concerns Assessment Year (AY) 2013-14.
7. A challenge is laid to the order dated 30.09.2021 passed by Income Tax Appellate Tribunal [in short, “the Tribunal”].
8. The appellant/revenue has proposed the following questions of law for our consideration:

“(i) Whether in facts and circumstances of the case, the Hon’ble ITAT is legally justified in upholding deletion of disallowance of Rs.3,91,00,000/- on account of write off value of slow-moving stores and spares by resorting to change of accounting method from the accounting method consistently followed in earlier years by the assessee ignoring the provision of Section 145A of the Act without appreciating the facts that the assessee is not allowed to adopt any Accounting Standards of its choice as and when it deemed to be beneficial to the assessee?

2. Whether the impugned order passed by Hon’ble ITAT is perverse both in law and on facts?”

9. According to the counsel for the parties, the first (proposed) question of law is covered by the decision dated 08.02.2017 rendered by a coordinate Bench in a bunch of appeals, which includes ITA 783/2016, titled ***Pr. Commissioner of Income Tax-6 vs. National Fertilizers Ltd.***
10. Consequently, the second question of law, which relates to perversity would not arise for consideration in the instant appeal.
11. Accordingly, the appeal and pending application are closed.

RAJIV SHAKDHER, J

JULY 10, 2023/pmc

MANMEET PRITAM SINGH ARORA, J
[Click here to check corrigendum, if any](#)