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

+ **ITA 42/2023 & CM APPL. 3046/2023**

COMMISSIONER OF INCOME TAX (INTERNATIONAL  
TAXATION)-2

..... Appellant

Through: Ms Easha Kadian, Adv. for Mr  
Sanjay Kumar, Sr. Standing Counsel.

versus

NATIONAL PETROLEUM  
CONSTRUCTION COMPANY

..... Respondent

Through: Mr Divyanshu Agrawal, Ms Pooja  
Mittal and Mr Vaibhav, Advs.

**CORAM:**

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

**HON'BLE MS. JUSTICE TARA VITASTA GANJU**

**ORDER**

% **23.01.2023**

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

**CM No.3046/2023 [Application filed on behalf of the appellant seeking  
condonation of delay of 100 days in re-filing the appeal]**

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

1.1 According to the appellant/revenue, there is a delay of 100 days.

2. Mr Divyanshu Agrawal, who appears on behalf of the respondent/assessee, says that he does not oppose the prayer made in the application.

3. Accordingly, the delay in re-filing is condoned.

4. The application is disposed of, in the aforesaid terms.

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5. This appeal concerns Assessment Year (AY) 2015-16. The Income Tax Appellate Tribunal [in short, “Tribunal”] *via* the impugned order dated 06.04.2022 has ruled in favour of the respondent/assessee.

6. The Tribunal’s finding is that the respondent/assessee does not have a Permanent Establishment [in short, “PE”] in India and, hence, the income cannot be brought to tax.

7. Learned counsel for the parties inform us that qua the very same issue, in the respondent/assessee’s case concerning AYs 2007-08 to 2009-10, a decision has been rendered by a coordinate bench of this court upholding the aforementioned view.

7.1 The view of the coordinate bench has been rendered in *National Petroleum Construction Co. v. Director of Income Tax (International Taxation)* [2016] 383 ITR 648.

8. In view of what is stated hereinabove, no substantial question of law arises for our consideration in the present appeal.

9. The appeal is, accordingly, closed.

**RAJIV SHAKDHER, J**

**TARA VITASTA GANJU, J**

**JANUARY 23, 2023**

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