



\$~132

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

+ ITA 463/2024

THE PR. COMMISSIONER OF INCOME TAX -4 NEW
DELHIAppellant

Through: Mr. Shlok Chandra, SSC along
with Ms. Madhavi Shukla, Ms.
Priya Sarkar, JSCs, Mr.
Madhav Gawri and Mr. Sushant
Pandey, Adv.

versus

M/S G-TEKT INDIA PVT. LTDRespondent

Through: Mr. Vishal Kalra, Adv.

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

%

27.08.2024

CM APPL. 48879/2024 (6 Days Delay) & CM APPL. 48880/2024
(208 Days Delay in Refiling)

Bearing in the mind the disclosures made, the delay of 06 days in filing the appeal and the delay of 208 days in re-filing the appeal is condoned.

Applications shall stand disposed of.

ITA 463/2024

1. Having gone through the order dated 19 July 2023 rendered by the Income Tax Appellate Tribunal [‘**Tribunal**’] and on hearing Mr. Chandra, learned counsel appearing in support of the appeal, we note that insofar as the disallowance of trading losses is concerned, the Tribunal has observed as follows:-



“9. The Bench is of considered opinion that Ld. Tax Authorities below have not appreciated the fact that the company was incorporated on 23.11.2011 and its existence and sustenance primarily was dependent upon the contract to manufactures certain parts to be used in the cars manufactured by HCIL. The case of assessee is that as there were competitor who had quoted lower rates of the dies thus, it decided to purchase the dies and sell the same at loss. Ld. Tax Authorities have failed to appreciate the substantial business of assessee in terms of sales was outcome of the contract with HCIL. It failed to appreciate that except for the present assessment year 2014-15, the assessee company has in the year 2013-14 and thereafter from 205-16 onwards till 2022-23 has reported profit from the business it had transacted with HCIL. The Ld. Tax Authorities have tagged the transaction to be sham without pointing out anything suspicious in the purchase documents.

XXXX

XXXX

XXXX

11. The Bench is of considered opinion that Ld. CIT(A) has failed to appreciate the aforesaid and sustained the addition made by Ld. AO. It appears that the primary consideration in the mind of Ld. CIT(A) was that product was purchased from the sister concern of HCIL so that tainted the transaction of loss. However, as appreciated by the Bench the Tax Authorities had failed to take into consideration the business prudence of the assessee for incurring certain losses in initial year for a sustainable and longer partnership with HCIL and which has given rise to generation of profits in subsequent years and which have been tendered for taxation.”

2. Since Mr. Kalra, learned counsel has entered appearance on behalf of the assessee and is yet to obtain a copy of the paper book, let the appeal be called again on 24.10.2024.

YASHWANT VARMA, J

RAVINDER DUDEJA, J

AUGUST 27, 2024/RW