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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **ITA 5/2023**

COMMISSIONER OF INCOME TAX (EXEMPTIONS) DELHI
..... Appellant

Through: Mr Abhishek Maratha, Sr. Standing
Counsel.

versus

ERNET (INDIA) Respondent

Through: Mr Rohit Jain, Advocate.

CORAM:

HON'BLE MR JUSTICE RAJIV SHAKDHER

HON'BLE MS JUSTICE TARA VITASTA GANJU

ORDER

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09.01.2023

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

CM APPL. 760/2023 [*Application filed on behalf of the appellant seeking
condonation of delay of 35 days in filing the appeal*]

CM APPL. 761/2023 [*Application filed on behalf of the appellant seeking
condonation of delay of 109 days in re-filing the appeal*]

1. These are the applications moved on behalf of the appellant/revenue, seeking condonation of delay in filing and re-filing the appeal.
2. Mr Rohit Jain, who appears on behalf of the respondent/assessee, says that he does not oppose the prayers made in the above-captioned applications.
3. The delay in filing and re-filing the appeal is, accordingly, condoned.
4. The above-captioned applications are disposed of.

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5. This appeal concerns Assessment Year (AY) 2013-14.
6. In this appeal, a challenge is laid to the order dated 27.01.2022, passed by the Income Tax Appellate Tribunal [in short, “Tribunal”].
7. Broadly, the issue that arises for consideration in the above-captioned appeal is as to whether the income of the respondent (which, otherwise, has objects which are charitable in nature), earned *via* its activities, is commercial in nature.
8. Counsel for the parties inform us that the issue has attained quietus by virtue of the judgment passed by the Supreme Court in *Assistant Commissioner of Income Tax (Exemptions) v. Ahmadabad Urban Development Authority* (2022) 449 ITR 1 (SC).
9. In these circumstances, the above-captioned appeal filed by the revenue is closed.
10. Consequently, the order passed by the Tribunal is sustained.

RAJIV SHAKDHER, J

TARA VITASTA GANJU, J

JANUARY 9, 2023 / tr

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