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

+ **ITA 526/2022**

PR. COMMISSIONER OF INCOME TAX
(CENTRAL)-2

..... Appellant

Through: Mr Sanjay Kumar, Sr Standing
Counsel.

versus

VERSATILE POLYTECH PVT. LTD.

..... Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORDER

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13.12.2022

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

CM Appl.53803/2022

1. Allowed, subject to just exceptions.

**CM Appl.53804/2022 [Application filed on behalf of the appellant seeking
condonation of delay of 180 days in re-filing the appeal]**

2. Issue notice to the respondent/assessee via all permissible modes,
including email.

2.1 List the application on 19.12.2022.

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3. Mr Sanjay Kumar, learned senior standing counsel, who appears on
behalf of the appellant/revenue, says that the issue raised in the present
appeal also obtains in another appeal concerning the same parties, i.e., ITA

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371/2021.

3.1. We are told that the said appeal is listed before the court on 19.12.2022.

4. It appears that the Income Tax Appellate Tribunal [in short, “Tribunal”] *via* the impugned order dated 15.03.2019 has ruled against the appellant/revenue on the ground that addition has been made by taking recourse to the provisions of Section 56(2)(viib) of the Income Tax Act, 1961 [in short “Act”], which is a provision, not adverted to by the assessing officer in his order.

5. Mr Kumar says that the view of the Tribunal is erroneous, inasmuch as the source of the income did not change. The source of income in this case, according to the appellant/revenue, is induction of unexplained share capital/premium.

6. List the appeal on 19.12.2022.

RAJIV SHAKDHER, J

TARA VITASTA GANJU, J

DECEMBER 13, 2022/pmc

Click here to check corrigendum, if any

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