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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **ITA 527/2022 & CM APPL. 53807/2022**

PR. COMMISSIONER OF INCOME TAX
(CENTRAL)- 3

..... Appellant

Through: Mr Zoheb Hossain, Sr. Standing
Counsel with Mr Vipul Agrawal and
Mr Parth Semwal, Advs.

versus

M/S. GRACIOUS PROJECTS PVT. LTD.

..... Respondent

Through: None.

CORAM:

HON'BLE MR JUSTICE RAJIV SHAKDHER

HON'BLE MS JUSTICE TARA VITASTA GANJU

ORDER

13.12.2022

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

CM APPL. 53807/2022 [*Application filed on behalf of the appellant seeking condonation of delay of 154 days in re-filing the appeal*]

1. Issue notice to the respondent *via* all modes including email.

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2. The Income Tax Appellate Tribunal [in short, "Tribunal"] *via* the order dated 11.12.2019, has ruled against the appellant/revenue on the ground that the "satisfaction", as required in law, was not arrived at by the assessing officer of the searched person.

3. The record discloses that the satisfaction note was recorded by the assessing officer of the other person, and not the searched person; the other person being assessee i.e., in this case, the respondent.

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4. In sum, according to the Tribunal, the trigger point for acquiring jurisdiction under Section 153C of the Income Tax Act, 1961 [in short, “Act”] was not available.

5. Mr Zoheb Hossain, who appears on behalf of the appellant/revenue, on the other hand, says that in this particular case, the assessing officer of the searched person and other person is the same individual, and therefore, the Tribunal’s view is erroneous.

5.1 In support of this submission, Mr Hossain relies upon the following judgments:

(i) *The Pr. Commissioner of Income Tax Central-3 Vs. Sheetal International Pvt. Ltd.* in ITA 375/2017;

(ii) *Ganpati Fincap Services Pvt. Ltd. and Ors. Vs. CIT* [2017] 395 1TR 692 (Delhi);

(iii) *Super Malls Pvt. Ltd. Vs. Pr. CIT*, (2020) SCC OnLine SC 306.

6. This aspect of the matter will be examined on the next date of hearing.

7. List the matter on 11.05.2023.

RAJIV SHAKDHER, J

TARA VITASTA GANJU, J

DECEMBER 13, 2022/SA

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