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

\+ **ITA 556/2023**

PR COMMISSIONER OF INCOME DELHI -1 ..... Appellant
Through: Mr Sanjeev Menon, Standing Counsel.

versus

M/S. ADVANCE INDIA PROJECTS PVT LTD ..... Respondent
Through: None.

CORAM:
HON'BLE MR. JUSTICE RAJIV SHAKDHER
HON'BLE MR. JUSTICE GIRISH KATHPALIA

O R D E R

% **26.09.2023**

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

CM Appl.49973/2023 ***[Application moved on behalf of the appellant/revenue seeking condonation of delay of 217 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.

2. According to the appellant/revenue, there is a delay of 217 days.

3. Issue notice to the non-applicant/respondent/revenue *via* all permissible modes including email.

4. List the application on 27.02.2024.

ITA 556/2023

5. This appeal concerns Assessment Year (AY) 2013-14.

6. The appellant/revenue seeks to assail the order dated 26.05.2022

passed by the Income Tax Appellate Tribunal [in short, “Tribunal”].

7. Broadly, there are two issues which arose for consideration before the Tribunal.

8. The first issue which arose before the Tribunal concerns the treatment of amount received by the respondent/assessee towards External Development Charges [“EDC”]/Internal Development Charges [“IDC”] and cess while selling the subject land to a company going by the name Pavi Buildwell Pvt. Ltd. [“Pavi”].

8.1 The record shows that the respondent/assessee had purchased the land, in first instance, from Rapid Infracon Pvt. Ltd. [“Rapid”]. The total consideration paid by the respondent/assessee to Rapid was Rs.56,40,25,768/-, out of which Rs.8,56,25,768/- was paid towards EDC/IDC and cess.

8.2. Insofar as the sale transaction with Pavi is concerned, the respondent/assessee claimed that it had received Rs.65 crores towards the sale value of land and the balance Rs.8,56,25,768/- towards EDC/IDC and cess.

9. The second issue which arose for consideration before the Tribunal concerns the ad hoc disallowance made with regard to the purported use of the subject car for personal purposes by the Director of the respondent company.

9.1 The Assessing Officer (AO) pegged the said disallowance to Rs 18,09,643/- which was scaled down by the Commissioner of Income Tax (Appeals) [in short, “CIT(A)”] to Rs.9,02,822/-. This disallowance was deleted by the Tribunal.

9.2. The appellant/revenue has appealed the deletion of the disallowance by the Tribunal which was quantified by the CIT (A) at Rs.9,02,822/-.

10. Insofar as the first issue is concerned, Mr Sanjeev Menon, learned standing counsel, who appears on behalf of the appellant/revenue, says he would like to place before the Court the record that was made available to the statutory authorities.

10.1 Leave in that behalf is granted.

11. List the matter on 27.02.2024.

RAJIV SHAKDHER, J

GIRISH KATHPALIA, J

SEPTEMBER 26, 2023/pmc

Click here to check corrigendum, if any