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IN THE HIGH COURT OF DELHI AT NEW DELHI

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ITA 560/2022 & CM No.56301/2022

THE PR. COMMISSIONER OF
INCOME TAX -CENTRAL -1

..... Appellant

Through: Mr Ruchir Bhatia, Sr. Standing
Counsel and Mr Shlok Chandra, Jr.
Standing Counsel with Ms Mansie
Jain, Adv.

versus

VATIKA LIMITED

..... Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORDER

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23.12.2022

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

**CM No.56301/2022 [Application filed on behalf of the appellant seeking
condonation of delay of 168 days in re-filing the appeal]**

1. This is an application moved on behalf of the appellant seeking condonation of delay in re-filing the appeal.
 - 1.1 According to the appellant, there is a delay of 168 days.
2. For the reasons given in the application, the delay is condoned.
3. The application is, accordingly, disposed of.

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4. Mr Shlok Chandra, who appears on behalf of the appellant/revenue, informs us that in the assessee's appeal, i.e., ITA No.33/2020, the issue which arises for consideration also obtains in the instant appeal.

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5. The following two issues are raised by the appellant/revenue in the instant case:

(i) Whether the Income Tax Appellate Tribunal [in short, “Tribunal”] erred on facts and in law in holding that the Commissioner of Income Tax (Appeals) [in short, “CIT(A)”] had travelled beyond the scope of the plenary powers conferred on him in disallowing 1/5th expenditure claimed by the assessee under Section 35D of the Income Tax Act, 1961 [in short, “Act”]?

(ii) Whether the Tribunal erred in law and on facts in holding that deduction of Rs.26,62,379/- claimed as commission and brokerage should be allowed to the assessee ?

6. Insofar as the first issue is concerned, Mr Chandra says that it is also the subject matter of ITA No.33/2020 in which notice has been issued.

7. Accordingly, issue notice to the respondent *via* all modes including e-mail.

8. List the matter on 06.03.2023.

RAJIV SHAKDHER, J

TARA VITASTA GANJU, J

DECEMBER 23, 2022

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Click here to check corrigendum, if any