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

+ **ITA 568/2023**

PR COMMISSIONER OF INCOME TAX CENTRAL

..... Appellant

Through: Mr Sanjeev Menon, Standing
Counsel.

versus

SOUL SPACE PROJECTS LTD

..... Respondent

Through: Mr Rohit Jain with Mr Aniket D.
Agrawal and Mr Abhishek, Singhvi,
Advs.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MR. JUSTICE GIRISH KATHPALIA

ORDER

09.10.2023

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Physical Hearing/Hybrid Hearing (as per request)]

**ITA 568/2023 & CM No. 51976/2023 [Application filed on behalf of the
appellant seeking condonation of delay of 446 days in re-filing the appeal]**

1. Mr Sanjeev Menon, learned standing counsel, who appears on behalf of the appellant/revenue, says that the issues that arise in the instant appeal also obtains in ITA No. 526/2023 and that the same is listed on 11.10.2023.
2. Accordingly, list the above-captioned appeal as well as the application on 11.10.2023.
3. We may note that this appeal concerns Assessment Year (AY) 2008-09.
4. *Via*, the instant appeal the appellant/revenue seeks to assail the order dated 03.06.2020 passed by the Income Tax Appellate Tribunal [in short, "Tribunal"].

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5. The Tribunal had allowed the cross-objection of the assessee regarding the extension of the timeframe granted by the Assessing Officer (AO) for the conduct of an audit under Section 142(2A) of the Income-tax Act, 1961 [in short, “Act”].

6. It is not in dispute that the AO had taken the approval of the specified authority i.e., Commissioner of Income Tax [in short, “CIT”] while appointing the auditor.

7. However, when an extension of time was sought by the auditor, on account of the respondent/assessee not cooperating, the AO, once again, sought the approval of the CIT.

8. According to the respondent/assessee, this violated the proviso appended to Section 142(2C) of the Act.

9. The respondent/assessee contends that an extension of the timeframe could have been ordered by the AO on his own i.e., *suo motu*, or on an application moved by the respondent/assessee, *albeit*, for any good and sufficient reason.

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

11. List the matter on 11.10.2023.

RAJIV SHAKDHER, J

GIRISH KATHPALIA, J

OCTOBER 9, 2023/R.Y

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