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

+ **ITA 671/2023**

**TGE GAS ENGINEERING GMBH** ..... Appellant

Through: Mr Ajay Vohra, Sr. Advocate.

versus

**DEPUTY COMMISSIONER OF INCOME TAX** ..... Respondent

Through: Mr Sunil Agrawal, Sr. Standing  
Counsel.

**CORAM:**

**HON'BLE MR. JUSTICE RAJIV SHAKDHER**

**HON'BLE MR. JUSTICE GIRISH KATHPALIA**

**ORDER**

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**30.11.2023**

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

**CM No. 61650/2023**

1. Allowed, subject to the appellant filing legible copies of the annexures, at least three days before the next date of hearing.

**CM No.61651/2023** [*Application filed on behalf of the appellant/assessee seeking condonation of delay of 80 days in re-filing the appeal*]

2. This is an application moved on behalf of the appellant/assessee, seeking condonation of delay in re-filing the appeal.

2.1 According to the appellant/assessee, there is a delay of 80 days in re-filing the appeal.

3. Mr Sunil Agrawal, learned senior standing counsel, who appears on

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behalf of respondent/revenue, says that he would have no objection if the delay is condoned.

4. It is ordered accordingly.

5. The application is disposed of, in the aforesaid terms.

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6. Having heard Mr Ajay Vohra, learned senior counsel, who appears on behalf of the appellant/assessee, according to us, the matter requires consideration.

7. Accordingly, the appeal is admitted and the following questions of law are framed for consideration by this court:

(i) Whether the Income Tax Appellate Tribunal [in short, “Tribunal”] misdirected itself on facts and in law in holding that the amount received by the appellant/assessee from its consortium partner was taxable under Article 21 of the India-Germany Double Tax Avoidance Agreement (in short, “DTAA”)?

(ii) Whether the Tribunal ought to have examined that the settlement amount received by the appellant/assessee was effectively connected to the Permanent Establishment (PE), before bringing it within the ambit of Article 21 of the DTAA.

8. List the appeal in due course, according to age and seniority.

**CM APPL. 61649/2023 [Application filed on behalf of the appellant seeking interim relief]**

9. Issue notice.

9.1 Mr Agrawal accepts notice.



10. Mr Agrawal seeks and is granted four weeks to file a reply to the above-captioned application.
- 10.1 Rejoinder thereto, if any, will be filed before the next date of hearing.
11. List the application on 05.03.2024.

**RAJIV SHAKDHER, J**

**GIRISH KATHPALIA, J**

**NOVEMBER 30, 2023/RV**

*Click here to check corrigendum, if any*