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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **ITA 672/2023**

**PR. COMMISSIONER OF INCOME TAX
(CENTRAL)-2**

..... Appellant

Through: Mr Sanjay Kumar, Sr. Standing
Counsel.

versus

GARDENIA INDIA PVT. LTD.

..... Respondent

Through: None.

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.61655/2023 [*Application filed on behalf of the appellant/revenue
seeking condonation of delay of 60 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. Having regard to the period involved, we are inclined to condone the delay.
3. It is ordered accordingly.
4. In case the respondent/assessee has any objection, it would be at liberty to approach the court in close proximity to the date when it is served in the matter.
5. The application is disposed of, in the aforesaid terms.

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6. This appeal concerns Assessment Year (AY) 2010-11.
7. *Via* the instant appeal, the appellant/revenue seeks to assail the order dated 31.03.2023 passed by the Income Tax Appellate Tribunal [in short, “Tribunal”].
8. The record shows that the Assessing Officer (AO) has made the following three additions:
 - (i) Rs. 1,03,87,450/- on account of cash receipt under Section 69A of the Income Tax Act, 1961 [in short, “Act”].
 - (ii) Rs. 22,21,86,248/- against bogus purchases.
 - (iii) Rs. 13,00,000/- towards unexplained loans/credit received from Anjali Buildcon Private Limited.
9. The record discloses that the respondent/assessee preferred an appeal against the assessment order dated 31.03.2013 before the Commissioner of Income Tax (Appeals) [in short, “CIT(A)”].
10. The CIT(A) *via* order dated 29.01.2014, partly allowed the appeal and sustained only the first addition referred to hereinabove, *albeit* under Section 56 of the Act.
11. In other words, the cash receipts which were added to the income of the respondent/assessee by the AO under Section 69A of the Act were treated as ‘income from other sources’ by the CIT(A), under Section 56 of the Act.
12. The record shows that both the appellant/revenue and the respondent/assessee had preferred an appeal to the Tribunal.



13. The Tribunal, *via* the impugned order, has sustained the order of the CIT(A).
14. Mr Sanjay Kumar, senior standing counsel, who appears on behalf of the appellant/revenue, seeks to contend that the AO's order should have been sustained by the Tribunal with regard to the additions made on account of cash receipts under Section 69A of the Act and bogus purchases.
15. Issue notice to the respondent/assessee *via* all modes, including email.
16. List the appeal on 11.03.2024.

RAJIV SHAKDHER, J

GIRISH KATHPALIA, J

NOVEMBER 30, 2023/RV

Click here to check corrigendum, if any