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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **ITA 688/2023**

COMMISSIONER OF INCOME TAX - INTERNATIONAL
TAXATION -1 Appellant

Through: Mr Ruchir Bhatia, Sr. Standing
Counsel with Ms Deeksha Gupta,
Adv.

versus

ERICSSON, AB SWEDEN Respondent

Through: Mr Vishal Kalra, Adv.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MR. JUSTICE GIRISH KATHPALIA

ORDER

% **05.12.2023**

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

CM APPL. 62542/2023

1. Allowed, subject to just exceptions.

CM APPL. 62543/2023 [*Application filed on behalf of the appellant seeking condonation of delay of 460 days in re-filing the appeal*]

2. This is an application filed by the appellant/revenue seeking condonation of delay in re-filing the appeal.

3. Although the period of delay is substantial i.e., 460 days, most of it appears to have been explained by referring to the judgment of the Supreme Court rendered in *Suo Motu Writ Petition No. 03 of 2020*.

4. Having regard to the same, Mr Vishal Kalra, learned counsel, who appears on behalf of the respondent/assessee, says that he would have no objection if the delay in re-filing is condoned.

5. The above-captioned application is accordingly disposed of.

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6. This appeal concerns Assessment Year (AY) 2001-02.

7. *Via* the instant appeal, the appellant/revenue seeks to assail the order dated 27.10.2021 passed by the Income Tax Appellate Tribunal [in short, “Tribunal”].

8. Mr Ruchir Bhatia, learned senior standing counsel, who appears on behalf of appellant/revenue, informs us that the impugned order was common not only to the Assessment Year (AY) in issue but also 1999-2000, which was subject matter of ITA No. 684/2023.

9. *Via* order dated 04.12.2023, we have issued notice concerning one of the two questions proposed in the said appeal. Mr Bhatia points out that the questions proposed in the instant appeals are identical.

10. Accordingly, issue notice limited to the following question.

Whether the Income Tax Appellate Tribunal misdirected itself on facts and in law in concluding that the respondent/assessee neither had in India a business connection concerning supply of GSM System to Cellular Operators nor a Permanent Establishment (PE) and therefore no profit could be attributed to it ?

10.1. Mr Vishal Kalra, accepts notice on behalf of the respondent/assessee.

11. List the above-captioned appeal on 10.04.2024, along with the connected ITA referred to hereinabove.

RAJIV SHAKDHER, J

GIRISH KATHPALIA, J

DECEMBER 5, 2023/R.Y

Click here to check corrigendum, if any

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