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

+ **ITA 690/2023**

**THE PR. COMMISSIONER OF INCOME TAX -CENTRAL -1**

..... Appellant

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

versus

**KARINA AIRLINES INTERNATIONAL LTD. .... Respondent**

Through: Mr Ruchesh Sinha and Ms  
Monalisha, Adv.

**CORAM:**

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

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

**ORDER**

**05.12.2023**

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

**CM No.62548/2023 [Application filed on behalf of the appellant seeking  
condonation of delay of 430 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.

1.1 According to the appellant/revenue, there is a delay of 430 days in re-filing the appeal.

2. Issue notice.

2.1. Mr Ruchesh Sinha, learned counsel, accepts notice on behalf of respondent/assessee.

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3. Mr Sinha says that he does not wish to file a reply to the application.
4. Mr Ruchir Bhatia, learned senior standing counsel, who appears on behalf of appellant/revenue points out that the accompanying appeal was filed on 20.04.2022 concerning the order of the Income Tax Appellate Tribunal dated 09.06.2021.
5. It is Mr Bhatia's contention that the judgment dated 10.01.2022 passed by the Supreme Court in *Suo Motu Writ Petition No. 03 of 2020* extended limitation till 28.02.2022 and also ordered the exclusion of the time between 15.03.2020 and 28.02.2022 for the purposes of computing limitation.
6. It was also pointed out by Mr Bhatia that *via* the very same order, the Court also ruled that notwithstanding the fact that some amount of period of limitation remaining, all persons shall have the limitation period of ninety (90) days, commencing from 01.03.2022.
7. Having regard to the aforesaid position, we are inclined to condone the delay. It is ordered accordingly.
8. The application is disposed of, in the aforesaid terms.

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9. This appeal concerns Assessment Year (AY) 2012-13.
10. *Via*, the instant appeal, the appellant/revenue seeks to assail the order dated 09.06.2021 passed by the Income Tax Appellate Tribunal [in short, "Tribunal"].
11. The issue which arises for consideration is : whether the Assessment Year (AY) in issue be brought within the sway of Section 153C of the Income Tax Act, 1961 [in short, "Act"]?



12. In this case, search was conducted on 07.04.2016. The record shows that on 29.03.2019, the Assessing Officer (AO) of the searched person recorded his satisfaction.

13. The record also discloses that the AO of the respondent/assessee (i.e., the other person) recorded his satisfaction on 15.05.2019. However, what is not in dispute is that the AO of the searched person and the other person/respondent/assessee is the same person.

14. Therefore, as indicated above, the issue which arises for consideration is: which of the two dates, that is, whether the date of search or the date of handing over of the record is relevant for reaching a conclusion with regard to the six (6) AYs *qua* which proceedings have been carried out.

15. Mr Sinha relies upon the judgment of Supreme Court in ***Commissioner of Income Tax vs Jasjit Singh***, [2023] 155 taxmann.com 155 SCC, to contend that the six (6) AYs *qua* which proceedings have been carried out have to be determined having regard to the date when the record was handed over to the AO of the person other than the searched person.

16. Mr Bhatia, on the other hand, relies upon the amendment brought about in Section 153C *via* the Finance Act, 2017, with effect from 01.04.2017.

16.1. Based on the amendment, it is contended by Mr Bhatia that the date when the search was conducted would be relevant for ascertaining the six (6) AYs which can be brought within the sway of Section 153C of the Act.

17. We may note that the judgment rendered by a coordinate bench dated 17.08.2017 passed in ITA 422/2017, titled ***Pr Commissioner of Income Tax vs Sarwar Agency Pvt. Ltd.***, has ruled that the amendment brought by



Finance Act, 2017 is prospective.

18. According to us, one of the issues that requires consideration is: what would be the situation if the AO is common both to the searched person and the person other than the searched person. This issue may arise even if the amendment is treated as prospective.

19. In our view, the matter requires consideration.

20. Issue notice.

20.1 Mr Ruchesh Sinha, accepts notice on behalf of the respondent/assessee.

21. Counsel for the parties will file written submissions, not exceeding three pages each, at least five days before the next date of hearing.

22. List the matter on 22.04.2024.

**RAJIV SHAKDHER, J**

**GIRISH KATHPALIA, J**

**DECEMBER 5, 2023/R.Y**

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