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

+ **ITA 693/2023**

PR. COMMISSIONER OF INCOME TAX -7 Appellant

Through: Mr. Puneet Rai, Sr. Standing Counsel

versus

M/S TV TODAY NETWORK LTD. Respondent

Through: Mr. Salil Aggarwal, Sr. Advocate
with Mr. Madhur Aggarwal,
Advocate

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. 62556/2023

1. Allowed, subject to just exceptions.

CM APPL. 62557/2023 [*Application filed on behalf of the appellant seeking condonation of delay of 480 days in re-filing the appeal*]

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

3. According to the appellant/revenue there is delay of 480 days in re-filing the appeal.

4. Mr. Salil Aggarwal, who appears on behalf of the respondent/assessee, says that he would have no objection if the delay is condoned.

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5. Accordingly, for the reasons given in the application, the delay is condoned.

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

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7. This appeal concerns Assessment Year (AY) 2004-05.

8. *Via* instant appeal appellant/revenue seeks to assail order dated 13.12.2021 passed by Income Tax Appellate Tribunal [in short, “Tribunal”].

9. The Tribunal has ruled in favour of the respondent/assessee on the ground that the penalty proceedings initiated against the respondent/assessee under Section 271(1)(c) of the Income Tax Act, 1961 [in short, “Act”] would fail, as the additions made were deleted in the quantum appeal concerning the very same AY.

10. Mr. Salil Aggarwal, learned senior counsel, who appears on behalf of respondent/assessee, has placed before us a hard copy of the order dated 28.03.2019 passed by the Tribunal which concerns appeals involving AYs 2004-05, 2008-09, 2009-10 and 2010-11,

10.1. We are told that appellant/revenue has not preferred an appeal concerning any of the above AYs. Mr Aggarwal, says that the respondent/assessee, however, had preferred an appeal with this Court qua AY 2009-10.

11. Given this position, according to us no interference is called for vis-à-vis the impugned order which concerns AY 2004-05.

12. The appeal is, accordingly, closed as no substantial question arises for our consideration.

13. At this stage, Mr. Puneet Rai, learned senior standing counsel, who

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appears on behalf of the appellant/revenue, points out that his instructions are that an appeal concerning AY 2004-05 was lodged.

13.1. Mr. Rai, however, fairly concedes that he does not have the dairy number which would have been allotted had the appeal been lodged with the Registry of this Court.

14. The position, as it obtains today, appears to be that no appeal was lodged with the Registry of this Court.

15. For the purposes of good order and record, the Registry will scan and upload the copy of the order dated 28.03.2019 passed by the Tribunal, which has been placed before us.

RAJIV SHAKDHER, J

GIRISH KATHPALIA, J

DECEMBER 5, 2023/rk

Click here to check corrigendum, if any