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

+ **ITA 740/2023 & CM APPL. 63834/2023**

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

..... Appellant

Through: Mr Sanjay Kumar, Sr. Standing  
Counsel.

versus

**NARENDRA AGGARWAL**

..... Respondent

Through: None.

**CORAM:**

**HON'BLE MR JUSTICE RAJIV SHAKDHER**

**HON'BLE MR JUSTICE GIRISH KATHPALIA**

**ORDER**

% **11.12.2023**

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

**CM APPL. 63834/2023 [Application filed on behalf of the appellant  
seeking condonation of delay of 410 days in re-filing the appeal]**

1. This is an application filed by the appellant/revenue seeking condonation of delay in re-filing the appeal.
2. According to the appellant/revenue, there is delay of 410 days in re-filing the appeal.
3. Issue notice to the respondent/assessee *via* all modes, including e-mail.
4. List the above-captioned application on 04.03.2024.

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### **ITA 740/2023**

5. This appeal concerns Assessment Year (AY) 2015-16.

6. *Via* the instant appeal, the appellant/revenue seeks to assail the order dated 04.04.2022 passed by the Income Tax Appellate Tribunal [in short, “Tribunal”].

7. The record shows that the Principal Commissioner of Income Tax (“PCIT”) exercised powers under Section 263 of the Income Tax Act, 1961 [in short, “the Act”] and set aside the original assessment order dated 27.12.2017 passed by the Assessing Officer (AO) under Section 143(3) of the Act. The PCIT’s order is dated 31.03.2021.

8. According to the PCIT, short-term capital gains disclosed by the respondent/assessee were not genuine. It was the PCIT’s view that the respondent/assessee had, in fact, obtained the benefit of an accommodation entry.

9. The record shows that the respondent/assessee had sold the shares of two companies i.e., K.D. Trendwear Ltd. [hereafter referred to as, “KDT”] and Pranav Sports Apparels Ltd. [hereafter referred to as, “Pranav”].

9.1. Insofar as KDT’s share were concerned, capital gains amounting to Rs.4,25,20,207.44 was shown. Likewise, insofar as Pranav’s shares were concerned, capital gains amounting to Rs.39,82,739.74 was disclosed.

10. The respondent/assessee, admittedly, has offered the short-term capital gains received for imposition of tax *albeit* at 15% under Section 111A of the Act. The PCIT has noted in its order that KDT is a penny stock company.

11. These are aspects which would be examined when the appeal taken up



for adjudication.

12. List the above-captioned appeal on 04.03.2024.

13. Mr Sanjay Kumar, learned senior standing counsel, who appears on behalf of the appellant/revenue, will place before the court the record that was made available to the statutory authorities.

13.1. In particular Mr Kumar will ensure that the two notices issued to the respondent/assessee by the PCIT are placed on record. These notices are dated 24.02.2021 and 03.03.2021.

14. Mr Kumar will also ensure that the record is duly indexed.

**RAJIV SHAKDHER, J**

**GIRISH KATHPALIA, J**

**DECEMBER 11, 2023 / tr**

*Click here to check corrigendum, if any*