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

+ **ITA 750/2023**

**PRINCIPAL COMMISSIONER OF INCOME TAX, CENTRAL-3,
DELHI** Appellant

Through: Mr Abhishek Maratha, Sr. Standing
Counsel with Mr Parth Semwal,
Advocate

versus

SHARAN SVADHA LLP Respondent

Through: Mr Gaurav Jain and Mr Shubham
Gupta, Advocates

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MR. JUSTICE GIRISH KATHPALIA

ORDER

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13.12.2023

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

CM APPL. 64359/2023 & 64360/2023 [*Applications filed on behalf of the
appellant seeking condonation of delay of 7 days in filing the appeal and
240 days in re-filing the appeal*]

1. These are the applications filed on behalf of the appellant/revenue seeking condonation of delay in filing and re-filing the appeal.

1.1 According to the appellant/revenue, there is a delay of 7 days in filing the appeal while the delay in re-filing is of 240 days.

2. Having regard to the period involved in filing and re-filing the appeal, we are inclined to condone the same.

2.1 It is ordered accordingly.

3. The applications are, accordingly, disposed of.

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

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5. Via the instant appeal, the appellant/revenue seeks to assail the order dated 11.10.2022 passed by the Income Tax Appellate Tribunal [in short “Tribunal”].

6. The central issue that arose for consideration before the Tribunal was whether the Commissioner of Income Tax (Appeals) [in short “CIT(A)”] erred in deleting the addition, amounting to Rs. 7,84,00,000/-, made by the Assessing Officer (AO), on account of the difference between the sale consideration paid and the apparent fair market value of the property.

7. To be noted, the record reveals that the respondent/assessee purchased a property on 13.01.2015 for a sale consideration of Rs. 4,50,00,000/- from Mr Inderpreet Singh Jhelumi and others. Furthermore, the respondent/assessee had paid stamp duty on Rs. 12,34,00,000/-; a value calculated at the circle rate concerning the subject property. The difference between the two values was added by the AO to the income of the respondent/assessee.

8. Interestingly, the AO did not allude to any provision in the Income-tax Act, 1961 [in short “the Act”] that permitted him to make an addition of the aforementioned amount without evidence of the respondent/assessee paying the balance sum of Rs. 7,84,00,000/- to the buyers, in addition to the consideration already disclosed.

9. The record also reveals that the respondent/assessee had, in support of its case, produced the valuation report of a registered government-approved valuer. The valuer in his report has adverted to the fact that the valuation of the subject property was based on a distress sale to obtain a bank loan.



9.1 Concededly, the AO did not carry out an independent valuation.

10. The record also discloses that the respondent/assessee had introduced a new partner, namely, Green Power Marketing & Advertising Pvt. Ltd. [in short, “GPMA”], which had invested Rs. 5,40,00,000/- as capital contribution in the respondent/assessee. Insofar as this amount is concerned, the AO has made a protective addition in the hands of the respondent/assessee and has proposed a substantive addition in the hands of GPMA.

11. Mr Abhishek Maratha, learned senior standing counsel, who appears on behalf of the appellant/revenue, has flagged the issue that the husband of one of the directors of GPMA was a rickshaw puller.

12. Given the aforesaid facts, we would like Mr Maratha to place on record the following information:

(i) Whether any addition has been made in the hands of the sellers i.e., Inderpreet Singh Jhelumi and Zeeny Jhelumi?

(ii) Whether the matter has proceeded further, insofar as the substantive addition in the hands of GPMA was concerned?

13. Relevant documents concerning the aforementioned aspects will be placed on record before the next date of hearing.

14. List the matter on 09.02.2024.

RAJIV SHAKDHER, J

GIRISH KATHPALIA, J

DECEMBER 13, 2023/rk