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

% *Decision delivered on: 16.08.2023*

+ **ITA 451/2023 & CM Nos.41738-39/2023**

THE PR. COMMISSIONER OF INCOME
TAX, CENTRAL -3

..... Appellant

Through: Mr Gaurav Gupta, Sr Standing
Counsel with Mr Shivendra Singh and
Mr Puneett Singhal, Standing
Counsels.

versus

PAWANSUT HOLDING LTD

..... Respondent

Through: None.

+ **ITA 452/2023 & CM Nos.41740-41/2023**

THE PR. COMMISSIONER OF INCOME TAX,
CENTRAL -3

..... Appellant

Through: Mr Gaurav Gupta, Sr Standing
Counsel with Mr Shivendra Singh and
Mr Puneett Singhal, Standing
Counsels.

versus

PAWANSUT HOLDING LTD

..... Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MR. JUSTICE GIRISH KATHPALIA

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

RAJIV SHAKDHER, J. (ORAL):

CM No.41738/2023 in ITA 451/2023

CM No.41740/2023 in ITA 452/2023

1. Allowed, subject to just exceptions.



CM No.41739/2023 in ITA 451/2023

CM No.41741/2023 in ITA 452/2023 [Applications filed on behalf of the appellant/revenue seeking condonation of delay of 38 days in filing the appeals]

2. These are the applications filed on behalf of the appellant/revenue seeking condonation of delay in filing the appeals.

2.1 According to the appellant/revenue, there is a delay of 38 days.

3. Regarding the nature of the delay involved, we are inclined to condone the delay.

3.1 It is ordered accordingly.

4. The applications are, accordingly, disposed of.

ITA 451/2023

ITA 452/2023

5. These appeals concern Assessment Year (AY) 2012-13 [ITA No.451/2023] and AY 2013-14 [ITA No.452/2023].

6. *Via* the above-captioned appeals, the appellant/revenue seeks to assail a common order dated 14.12.2022.

8. Mr Gaurav Gupta, learned senior standing counsel, who appears on behalf of the appellant/revenue, does not dispute the fact that the appeal concerning substantive addition is pending adjudication before the Income Tax Appellate Tribunal [in short, "Tribunal"].

9. It is, however, Mr Gupta's contention that the additions made vis-à-vis the respondent/assessee, *albeit*, on protective basis which were the subject matter of the appeal before the Tribunal could have been kept pending instead of being closed.



10. According to us, that was one alternative. The other alternative was, which is what the Tribunal has done, to dispose of the appeal with a caveat that “in the event of any deletion” in the hands of Mr P.K. Jindal wherein substantial additions were made, the appellant/revenue will have liberty to take further steps against the respondent/assessee in accordance with law.
11. According to us, this would mean that if the appellant/revenue were to fail in the matter concerning substantive additions, it would have leave to reopen the appeal pending before the Tribunal.
12. The above-captioned appeals are, thus, closed.
13. A copy of the order passed today will be dispatched by the Registry to the respondent/assessee *via* all modes including e-mail.
14. The appellant/revenue is also given liberty to serve a copy of the order passed today on the respondent/assessee.
15. Parties will act based on the digitally signed copy of the order.

RAJIV SHAKDHER, J

GIRISH KATHPALIA, J

AUGUST 16, 2023

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