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

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**ITA 226/2015**

COMMISSIONER OF INCOME TAX

..... Appellant

Through: Mr. N. P. Sahni, Senior Standing counsel  
with Mr. Nitin Gulati, Advocate.

versus

ASHIAN NEEDLES PVT. LTD.

..... Respondent

**CORAM:**

**HON'BLE DR. JUSTICE S. MURALIDHAR**

**HON'BLE MR. JUSTICE VIBHU BAKHRU**

**ORDER**

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**24.08.2015**

**CM No. 5537/2015 (for exemption)**

1. Exemption allowed subject to all just exceptions.

2. The application is disposed of.

**CM No. 5538/2015 (for condonation of delay in re-filing the appeal) & ITA 226/2015**

3. There is an extraordinary delay of 344 days in re-filing the appeal. The reason given for the delay is contained in para 4 of the application CM No. 5538/2015 which reads as under:

“4. The in the present case, the Appeal has been returned with certain objections. The appellant through the Assessing Officer has taken steps to remove the objections but there has been delay in re-filing the same. Since the Appeal have been filed in the discharge of the official duties and on the basis of the records maintained in the office, there has been some delay in re-filing the Appeal. The delay of 344 days in re-filing the appeal may be condoned as the Appeals are being filed in the discharge of the official duties and some delay has taken place on account of fact that the concerned officer has to perform other functions as Assessing Officer. The Junior Standing Counsel also took sincere steps to remove the delay, but it resulted in delay for few days. It may be very humbly stated that other appeals filed in the same format have got scrutinized and listed but this appeal however stuck into objection.”

4. Apart from saying that the appeals have been filed in the discharge of official duties and that some delay has taken place since the concerned officer had to perform other functions as Assessing Officer (‘AO’), there is no satisfactory explanation for the extraordinary delay. There appears to be some casualness on the part of the counsel for the Revenue in attending to the defects pointed out by the Registry. Consequently, the Court is not inclined to condone the delay in re-filing the appeal.

5. Nevertheless, appeal has also been examined on merits. The question urged for consideration is whether the ITAT was justified in quashing the reassessment proceedings under Section 147/148 of the Income Tax Act, 1961 ('Act') on the ground that there was no specific material with the AO to hold that any income has escaped assessment.

6. The decision of the ITAT appears to have turned entirely on facts. It is observed by the ITAT that there was nothing on record before the AO even in the form of any specific information that the Assessee had converted black money into white through an entry provider. Further, while in the notice issued to the Assessee for four years, the AO had observed that Rs.27 lakhs, Rs.62 lakhs, Rs.4.80 crores and Rs.6.96 crores respectively had escaped assessment, the additions actually made for the respective years were Rs. 27 lakhs, Rs. 10 lakhs, Rs. 1.5 crores and Rs. 10 lakhs respectively. This meant that the AO was himself "not sure that the entire amount which was mentioned in the report of the investigation was on account of the escaped income of the Assessee." This also showed that the AO had not applied his mind before issuing notice under Section 148 of the Act.

7. The decision of the ITAT having turned on facts, which have not been

controverted, no substantial question of law arises for determination.

8. Consequently, the appeal is dismissed both on the ground of the delay in re-filing the appeal as well as on merits.

**S. MURALIDHAR, J**

**VIBHU BAKHRU, J**

**AUGUST 24, 2015/dn**