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

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Date of Decision: 06.11.2023

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ITA 335/2023 & CM No.32809/2023PR. COMMISSIONER OF INCOME
TAX (CENTRAL)-2

..... Appellant

Through: Mr Sanjay Kumar, Sr Standing
Counsel with Ms Easha and Ms
Hemlata, Standing Counsels.

versus

GOPAL KUMAR GOYAL

..... Respondent

Through: Mr Gautam Jain, Mr Piyush Kumar
Kamal, Ms Monika Aggarwal and Mr
Manish Yadav, Advs.**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.32809/2023 [Application filed on behalf of the appellant seeking
condonation of delay of 220 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.1.1 According to the appellant/revenue, there is a delay of two hundred
and twenty (220) days in re-filing the appeal.2. Ms Monika Aggarwal, who appears on behalf of the
respondent/assessee, says that she would have no objection if the delay in re-
filing is condoned.



2.1 It is ordered accordingly.

3. The application is, accordingly, disposed of.

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

5. *Via* the instant appeal, the appellant/revenue seeks to assail the order dated 30.03.2022 and corrigendum dated 08.04.2022 issued by the Income Tax Appellate Tribunal [in short, “Tribunal”].

6. The issue that arose for consideration before the Tribunal was whether the penalty under Section 271(1)(c) of the Income-tax Act, 1961 [in short, “Act”] had been correctly imposed.

7. The record shows, and something that is not in dispute, is that the Assessing officer (AO) had not indicated, with clarity, the ground on which penalty had been levied i.e., on account of concealment of income or furnishing inaccurate particulars.

7.1 Thus, according to the Tribunal, this issue already stood covered against the appellant/revenue in several judgments that have been referred to in paragraph 14 of the impugned order dated 30.03.2022.

8. The Tribunal, *via* impugned order dated 30.03.2022, disposed of the cross-appeals filed by the parties herein.

8.1 It is in this context that ITA No. 345/2023, titled ***Pr. Commissioner of Income Tax (Central)-2 v. Gopal Kumar Goyal***, concerning the very same AY, i.e., AY 2004-05 came up for adjudication before this court. The said appeal preferred by the appellant/revenue was closed with a detailed order concluding that no substantial question of law arose for consideration.

9. Given the aforesaid circumstances, the same fate will follow insofar as this appeal is concerned.



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10. Accordingly, the appeal is closed as no substantial question of law arises for our consideration.
11. Parties will act based on the digitally signed copy of the order.

RAJIV SHAKDHER, J

GIRISH KATHPALIA, J

NOVEMBER 6, 2023

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