

IN THE HIGH COURT OF DELHI AT NEW DELHI

23.09.2009

**Present: Ms. Prem Lata Bansal, Advocate for the appellant.
Mr. S.Ganesh, Senior Advocate with Mr. S. Sukumuran, Advocate
and Mr.
Anand Sukumar, Advocate for the respondent.**

C.M. No.16272/2008 in I.T.A. No.1365/2008 COMMISSIONER OF
INCOME TAX **Vs.** MONITOR INDIA LTD.

**There is delay of 180 days in filing the present appeal. It is
stated in this application that initially order was received in Delhi but
since**

**the jurisdiction was transferred to Mumbai, this order was sent to
Mumbai and it**

**was decided to file the appeal there. However, the Senior Standing
Counsel in**

**Mumbai opined that appropriate jurisdiction vests with Delhi High
Court and not**

**Bombay High Court. The matter was accordingly sent back to Delhi
and because of
this reason delay occurred.**

**Learned counsel for the respondent though does not dispute that
the aforesaid cause furnished by the appellant would constitute
sufficient cause**

**for condoning the delay , his submission however, is that this Court
has no**

**power to condone the delay in appeals filed under Section 260(A) of
the Income**

**Tax Act. However, in I.T.A. No.932/2008 vide order dated 4.9.2008 in
Ravinder**

**Nath Jain Vs. C.I.T., it has been decided by this Court that the High
Court has**

**power to condone the delay. Therefore, we do not agree with this
objection of**

**learned counsel for the respondent. Delay in filing the appeal is
condoned.**

CM is disposed of.

C.M. No.16273/2008 in I.T.A. No.1365/2008

**For the reasons stated in this application, delay in refilling the
appeal is condoned.**

CM is disposed of.

I.T.A. No.1365/2008

Admit.

The following substantial question of law arises for determination:

?Whether the ITAT was correct in law in holding that the provisions of Section

40(a)(i) could not have been applied by the Assessing Officer to disallow the

sum of Rs.55.40 lacs claimed by the assessee under the head ?fees for

deputations of foreign professionals? as the provisions of Section 195(1) were

not applicable to the present case??

Papers book be filed within three months.

A.K.SIKRI, J

VALMIKI J.MEHTA, J

September 23, 2009

Ne/pmc

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