

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 5338 OF 2013
(ARISING OUT OF SPECIAL LEAVE PETITION (CIVIL) NO. 34192 OF 2012)

THE COMMISSIONER OF INCOME TAX

... APPELLANT

VERSUS

ESSAR PROJECTS LTD.

... RESPONDENT

O R D E R

1. Leave granted.
2. By the consent of the learned counsel for the parties, the matter is taken up for final hearing.
3. The Revenue had filed an appeal bearing Income Tax Appeal No.450 of 2010 against the order passed by the Income Tax Appellate Tribunal. While filing the appeal there was a delay of one day. The High Court had dismissed the appeal by its order dated 22.07.2009.
4. The appellant was before this Court in S.L.P.(C) No.13872 of 2011 @ CC No.7887 of 2011 against the order dated 22.07.2009 of the High Court. While disposing of the said Special Leave Petition, this Court vide orders dated 10.05.2011 had directed the Revenue to file the Notice of Motion within eight weeks i.e. on or before 5th July, 2011.
5. In compliance of the orders of this Court dated 10.05.2011, the Revenue has filed the Notice of Motion on 29.07.2011 which was beyond eight weeks time and there was a delay of 24 days in filing the Notice of Motion by the Revenue.

6. Keeping in view the aforesaid aspect of the matter, the High Court has once again rejected the appeal filed by the Revenue. Being aggrieved by the said order, the Revenue is before us in this Civil Appeal.

7. We have heard learned counsel for the parties to the *lis*.

8. In our view, the High Court ought not to have been too technical in rejecting the Notice of Motion filed by the Revenue, since the Revenue could not obtain the certified copy of the order passed by this Court well within time.

9. In that view of the matter, we condone the delay of 26 days in filing the Notice of Motion by the Revenue.

10. We now request the High Court to dispose of the Income Tax Appeal No.450 of 2011 on merits, after affording opportunity of hearing to both the parties.

11. The Civil Appeal is disposed of accordingly. No costs.

Ordered accordingly.

JUDGMENT

.....J.
(H.L. DATTU)

.....J.
(DIPAK MISRA)

NEW DELHI;
JULY 08, 2013