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

\+ ITA 1275/2018

PRO COMMISSIONER OF INCOME TAX - (CENTRAL) - 2

..... Appellant

Through: Mr.Zoheb Hossain, Sr. St. Counsel

versus

M/S SAAMAG CONSTRUCTION PVT. LTD. ..... Respondent

Through

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

O R D E R

% 17.12.2018

CM APP No. 47542/2018

For the reasons stated in the application, the delay of 92 days in re-filing the appeal is condoned.

The application is allowed.

ITA No.1275/2018

Issue notice, returnable on 20th March, 2019.

The issue which arises for consideration is whether transfer of rights acquired by the assessee under the Development Agreement dated 23.02.2007 with Ghaziabad Development Authority should be taxed as capital gains. Ghaziabad Development Authority it is stated had not executed a registered document transferring title. Hence, Section 53A of the Transfer of Property Act, 1982 would not apply. Contention raised by the

Revenue is that the development rights conferred by the aforesaid agreement were itself a capital asset and on transfer of the same, the amount received would be taxable.

SANJIV KHANNA, J.

ANUP JAIRAM BHAMBHANI, J.

DECEMBER 17, 2018
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