

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

SPECIAL LEAVE PETITION (CIVIL) Diary No(s). 27612/2025

[Arising out of impugned final judgment and order dated 02-04-2024 in SCA No. 18791/2021 passed by the High Court of Gujarat at Ahmedabad]

THE PRINCIPAL COMMISSIONER OF INCOME TAX 1 SURAT Petitioner(s)

VERSUS

M.D. INDUSTRIES PVT. LTD. Respondent(s)

IA No. 153141/2025 - CONDONATION OF DELAY IN FILING

Date : 11-07-2025 This matter was called on for hearing today.

CORAM :

**HON'BLE MR. JUSTICE PANKAJ MITHAL
HON'BLE MR. JUSTICE K.V. VISWANATHAN
(PARTIAL COURT WORKING DAYS BENCH)**

For Petitioner(s) :

**Mr. S Dwarakanath, A.S.G.
Mr. Rupesh Kumar, Sr. Adv.
Mr. Raj Bahadur Yadav, AOR
Mr. Pratyush Shrivastava, Adv.
Mr. B K Satija, Adv.
Ms. Adya Jha, Adv.
Mr. Gautam Kumar, Adv.**

For Respondent(s) :

**UPON hearing the counsel the Court made the following
O R D E R**

Delay condoned.

**It is stated at the Bar that the application
before the Settlement Commission has not been decided,
and an order under Section 245D(4) of the Income Tax
Act, 1961¹, on the application is to be passed.**

¹ 1961 Act for short.

It is only if the application for settlement is rejected without providing for terms of settlement that Section 245HA of the 1961 Act will be applicable and the appellate proceedings will stand revived.

The stand of the Revenue that the assessee must give up his right to contest the assessment order on merits, if the settlement application is rejected without providing for terms of settlement, is misconceived and must be rejected.

In the peculiar facts of the case the Income Tax Appellate Tribunal was justified in condoning the delay, as well as setting aside the order of the Commissioner of Income Tax (Appeals) and restoring the first appeal.

Recording the aforesaid, we dismiss the present special leave petition.

We, however, clarify that the Commissioner of Income Tax (Appeals) should keep the appellate proceedings in abeyance till the disposal of the application by the Settlement Commission in terms of the 1961 Act.

Pending application(s), if any, shall stand disposed of.

(NEETU KHAJURIA)
ASST.REGISTRAR-CUM-PS

(NIDHI MATHUR)
COURT MASTER