

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL (L) NO.660 OF 2007

The Commissioner of Income Tax - 7, Mumbai ..Appellant.

Versus

M/s.Sadhana Nitrochem Limited ..Respondent.

Mr.Suresh Kumar for the appellant.
Mr.Sanjiv M. Shah for the respondent.

**CORAM : Dr.D.Y. Chandrachud &
J.P. Devadhar, JJ.**

DATE : 26th February, 2010.

PC. :

1. In Para 9 of the memo of appeal, it has been admitted that there is a delay of 407 days in filing the appeal. Though a statement has been made that the notice of motion is being filed along with the Appeal, in fact no Notice of Motion has been taken out for condonation of delay.

2 But apart from this, a Division Bench of this Court has observed that in view of the decision of the Supreme Court in Chaudharana Steels (P) Limited v. Commissioner of Central excise [2009 (238) ELT 705 (SC)], this Court has held in CIT v. Grasim Industries Limited [Notice of Motion No.787 of 2009 in I.T.A. (L) No.

3592 of 2008 decided on 8th July 2009] that this Court has no power to condone the delay in filing an appeal under Section 260A of the Income Tax Act, 1961. In these circumstances, the appeal shall stand dismissed on the ground that it is barred by limitation. There shall be no order as to costs.

(J.P. Devadhar, J.)

(Dr.D.Y. Chandrachud, J.)