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

\# **CNR No. DLHC011105482025**

\+ ITA 441/2026, CM APPL. 35973/2026 & CM APPL. 35974/2026

PR. COMMISSIONER OF INCOME TAX-7, DELHI .....Appellant
Through: Mr. Puneet Rai, SSC with Mr. Ashwini Kumar & Mr. Rishabh Nangia, JSCs.

versus

RAJDARBAR HERITAGE VENTURE LTD. .....Respondent
Through: None.

CORAM:
HON'BLE MR. JUSTICE DINESH MEHTA
HON'BLE MR. JUSTICE RAJNEESH KUMAR GUPTA

O R D E R

% 19.08.2026

CM APPL. 35975/2026 (*delay in re-filing*)

1. Instant application has been filed under Section 151 of the Civil Procedure Code, 1908 seeking condonation of delay of 164 days in re-filing the appeal.

2. For the reasons stated in the application, the delay of 164 days in re-filing the appeal is condoned.

3. Application stands allowed.

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4. The present appeal under Section 260A of the Income Tax Act, 1961 *(hereinafter referred to as 'the Act of 1961')*, raises the following questions:

"A. Whether the Hon'ble ITAT erred in law in upholding the deletion of addition of Rs. 8,48,89,345/- on the ground of double

addition without appreciating that the aforesaid addition was made during the course of reassessment proceedings on the basis of credible information received from Arbitral Tribunal and also the additions made in the original assessment order have been decided by the appellate authorities which resulted in assessment at returned income?

B. Whether the Hon'ble ITAT erred in law in upholding the deletion of addition of Rs. 42,08,00,000/- on the ground of re-agitating the issue decided in original assessment without appreciating that this issue was never analysed during original assessment by the assessing officer?

C. Whether the Hon'ble ITAT erred in law in upholding the deletion of addition of Rs. 42,08,00,000/- without appreciating that this issue came to the notice of the assessing officer during the reassessment proceedings which may be assessed as per provisions of explanation to Section 147 of the Act?"

5. Mr. Puneet Rai, learned Senior Standing Counsel for the appellant-department, submitted that the Tribunal has erred in rejecting the revenue's appeal. He pointed out from the Assessment order that the reasons for which the reassessment proceedings were initiated was the information which the Assessing Officer had received from the arbitration proceedings that an amount of Rs.8,48,89,345/- paid on account of bogus construction expenses which was not part of the assessment which was made under Section 143(3) of the Act of 1961.

6. Having heard learned counsel for the appellant and considering the

material available on record, we find that both the Appellate Authorities viz. Commissioner of Income Tax (Appeals) *(hereinafter referred to as 'CIT(A)')* so also the Tribunal, have concurrently held that the amount of Rs.8.48 Crores had already been assessed to tax or had been considered while framing the assessment under Section 143(3) of the Act of 1961, while considering the issue of capital gain.

7. Firstly, as found by the appellate authorities this amount has been considered and secondly, it is purely a finding of fact concurrently held by two authorities below, we do not find any question of law emanating from the orders of the Appellate Authorities, so as to warrant our interference in exercise of our jurisdiction under Section 260A of the Act of 1961.

8. So far as the other addition which the Assessing Officer had made being addition of Rs. 42.08 Crores of alleged fictitious long term capital loss on sale of shares, the Tribunal and CIT(A) were justified in holding that no new information or material had come to the notice of the Assessing Officer and the same had been considered while passing the assessment under Section 143(3) of the Act of 1961. We do not find any error in the orders of the Appellate Authorities in this regard as well.

9. The appeal is, therefore, dismissed alongwith all interlocutory applications.

DINESH MEHTA, J.

RAJNEESH KUMAR GUPTA, J.

AUGUST 19, 2026/*nk*