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

Date of decision: 18th NOVEMBER, 2026

IN THE MATTER OF:

\# **CNR No. DLHC010014012018**

\+ **ITA 126/2019**

THE PR. COMMISSIONER OF INCOME TAX -3 .....Appellant

Through: Mr. Sunil Agarwal SSC, Ms Monica Benjamin JSc, Mr Gibran Naushad JSc, Mr Adeeb Ahmed Adv Ms Harshita Sharma Adv

versus

DLF LTD. .....Respondent

Through: Ms. Kavita Jha, Sr. Adv. with Mr. Aditeya Bali, Mr. Akash Shukla, Advs.

CORAM:
HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD
HON'BLE MS. JUSTICE RENU BHATNAGAR

JUDGMENT

1. The instant appeal has been filed by the revenue/Appellant under Section 260A of the Income Tax Act, 1961 ('**IT Act**') against the Order dated 01.11.2017 passed by the Income Tax Appellate Tribunal ('**ITAT'**) in ITA No.3846/Del/2012 (A.Y. 2007-08) ('**Impugned Order'**). The ITAT by the impugned Order has allowed the Appeal filed by the Appellant and has dismissed the Appeal filed by the Revenue.

2. On 23.09.2026, following five substantial questions of law arising out of the present Appeal were farmed by this Court:

i. Whether on the facts and circumstances of the case and in law, the ld.

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ITAT was justified in deleting the addition of Rs 4,19,00,000/- made by the Assessing Officer on account of disallowance of proportionate interest?

ii. Whether on the facts and circumstances of the case and in law ld. ITAT was justified in deleting the addition of Rs.25,92,00,000/- made by the Assessing Officer on account of disallowance on account of Capitalization of interest?

iii. Whether on the facts and circumstances of the case and in law ld. ITAT was justified in deleting the addition of Rs.33,99,87,217/- made by the Assessing Officer on account of disallowance of revenue recognition as per percentage of calculation method?

iv. Whether on the facts and circumstances of the case and in law ld. ITAT was justified in deleting the addition of Rs.7,87,31,326/- made by the AO on account of disallowance of reclassification of income from 'Income from house property' to 'Income from business & profession'?

v. Whether on the facts and circumstances of the case and in law ld. ITAT was justified in deleting the addition of Rs.3,28,52,595/- made by the Assessing Officer on account of disallowance of notional rent/additional annual letting value (ALV) in respect of vacant property?

3. Both sides are *ad idem* that questions No.1 to 4 are no longer *res integra* as they are covered by the Judgment passed by this Court in ITA No.926/2016 and ITA No.928/2016. As such, the only question left for adjudication in the present appeal is question No. 5 as framed above.

4. Brief facts leading up to the filing of the present appeal are as follows:

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a. The Assessee/Respondent is a company engaged the business of real estate development, colonization and construction of housing and commercial projects for sale and rental purposes.

b. The Assessee/Respondent filed its return of income on 31.10.2007 declaring an income of ₹568, 54, 69, 981/-which was subsequently revised on 13.11.2007 declaring in income of ₹568, 54, 69, 980 which was processed under section 143 (1) of the IT Act. Thereafter the case of the Assessee was selected for scrutiny assessment.

c. Subsequently, the AO on 05.11.2009 issued directions for special audit in accordance with provisions of section 142(2A) of the IT Act, against which the Assessee/Respondent herein filed an appeal before this Court which was decided by directing the AO to pass a reasoned order for directing special audit. Consequently, the AO on 08.12.2009, directed the Assessee/Respondent to file special audit report which was duly complied with by the Assessee/Respondent herein.

d. The Assessing Officer on the basis of special audit report, passed an Assessment Order dated 07.10.2010 u/s 143(3) of the IT Act whereby the total income was computed at Rs. 750,38,90,009/- as against the returned income of Rs. 568,54,69,980/- by making various additions and disallowance to the extent of Rs. 181,84,20,029/-.

e. Aggrieved by the Assessment Order, the Assessee/Respondent herein filed an Appeal before CIT(A) on various grounds, which was partly allowed *vide* order dated 29.05.2012.

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f. Subsequently, both the Revenue/Appellant and Assessee/Respondent challenged the Order dated 29.05.2012 passed by the CIT(A) before the ITAT on various grounds. The ITAT vide the impugned order dismissed the appeal of the Revenue/Appellant herein and partly allowed the appeal of the Assessee/Respondent.

5. As far as question No.5 is concerned, it is the case of the Revenue/Appellant that the ITAT erred in deleting additions of Rs.3,28,52,595/- made by the Assessing Officer on account of disallowance of notional rent/additional annual letting vale (ALV) w.r.t. vacant properties as vacant/unsold flats of built-up complexes are subject to tax in terms of Section 22 read with Section 23 of the IT Act.

6. Ld. Counsel for the Revenue/Appelllant in support of his contentions relied upon the order passed by the Assessing Officer which made reference to the observations of the Special Auditor and findings in the preceding year 2005-2006 as well as 2006-2007, wherein similar additions were considered. Ld. Counsel for the Revenue/Appellant has relied upon the Judgment of this Court in Ansal Housing & Constructions Ltd. vs Assistant Commissioner of Income Tax, **[2018] 89 taxmann.com 238 (Delhi),** wherein the assessee was also engaged in the business of the construction of house property in the relevant assessment year and the ITAT assessed the annual letting value (ALV) of flats, which the assessee had constructed but were lying unsold or vacant under the head “income from house property”. Learned Counsel for the Appellant states that the ITAT in the said case held that notional rent or annual letting value of unsold inventory of built-up residential houses/flats are taxable under provisions of Section 22 and 23 of the IT Act . The ITAT

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further noted that though the assessee had commercial and residential flats and spaces which could have been sold to the prospective buyers as its stock-in-trade for business purposes however were in self-possession of the Assessee till their sale. The contention of the assessee in the said case was also that since the unsold flats and spaces held as stock in trade by the assessee, therefore, by virtue of Section 23(1)(c) of the IT Act , if the property was vacant for the whole of the previous year the annual letting value shall be taken to be nil. This Court dismissed the appeal of the Assessee/ Appellant by observing that no efforts on behalf of the assessee were made to let out the vacant property in the relevant or previous years, therefore, benefit of Section 23(1)(c) of the IT Act cannot be granted to the assessee. The said provision will only come to the rescue of the assessee when the property is held for letting out and clear efforts are being made to let it out.

7. *Per contra*, Ld. Counsel for the Respondent/Assessee states that the present appeal does not give rise to any 'substantial question of law'. The Respondent/Assessee states that in the relevant year of assessment i.e., 2007-08 out of 23 units in 3 commercial properties 19 units were let out, however, 4 units were admittedly lying vacant. It is the case of the Respondent that the Assessing Officer made additions of Rs. 3, 38,52,595/- in respect of all 23 units on the basis of the special audit report. It is further stated that the ALV of 19 units u/s 23(1)(a) of the IT Act was computed by taking the highest rate of rent per sq. feet received by the Respondent and with regard to the 4 vacant units, the ALV was determined as per Section 23(1)(a) of the IT Act on the basis that the said units were lying vacant throughout the whole relevant year. It is the case of the

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Respondent/Assessee that in compliance of the Order dated 13.08.2026, passed by this Court an affidavit was filed wherein the Respondent/Assessee stated that 4 vacant properties out of 23 units i.e., LG-23 of City Centre Gurgaon and FF(F-034), G-05, 307-A of Centre Point, Faridabad were let out in earlier years and the said properties are vacant in relevant assessment year. Documents were also filed along with the said affidavit by the Respondent/ Assessee to show that the vacant properties were let out in the previous years and the Assessee/Respondent after making efforts could not find the tenants in the relevant assessment year, i.e., 2007-008. It is further submitted by the Ld. Counsel for the Respondent/Assessee that the material/documents filed along with the affidavit shows that despite making efforts, the vacant properties could not be let out in relevant assessment year, i.e., 2007-008, however, the same were let out in the previous years and,therefore, the Respondent/Assessee is entitled to the benefit of vacancy allowance under Section 23(1)(c) of the IT Act and the ALV of the 4 vacant units ought to be taken an as NIL for AY 2007-008. It is the case of the Respondent/Assessee that the ITAT had in the Impugned Order relied upon its own order passed in the case of the Assessee/Respondent herein for A.Y. 2006-2007, whereby the ITAT deleted the additions on account of notional rent.

8. Heard Ld. Counsel for the parties and perused the material on record.

9. Section 23 of the IT Act is reproduced herein:

> ***"23.*** *(1) For the purposes of section 242, the annual value of any property shall be deemed to be—*
>
> *(a) the sum for which the property might reasonably be expected to let from year to year; or*

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(b) where the property or any part of the property is let and the actual rent received or receivable by the owner in respect thereof is in excess of the sum referred to in clause (a), the amount so received or receivable; or

(c)where the property or any part of the property is let and was vacant during the whole or any part of the previous year and owing to such vacancy the actual rent received or receivable by the owner in respect thereof is less than the sum referred to in clause (a), the amount so received or receivable :

Provided that the taxes levied by any local authority in respect of the property shall be deducted (irrespective of the previous year in which the liability to pay such taxes was incurred by the owner according to the method of accounting regularly employed by him) in determining the annual value of the property of that previous year in which such taxes are actually paid by him.

Explanation.—For the purposes of clause (b) or clause (c) of this sub-section, the amount of actual rent received or receivable by the owner shall not include, subject to such rules as may be made in this behalf, the amount of rent which the owner cannot realise.

[(2) The annual value of the property consisting of a house or any part thereof shall be taken as nil, if the owner occupies it for his own residence or cannot actually occupy it due to any reason.]

(3) The provisions of sub-section (2) shall not apply if—

(a)the house or part of the house is actually let during the whole or any part of the previous year; or

(b) any other benefit therefrom is derived by the owner.

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(4) Where the property referred to in sub-section (21) consists of more than two houses —

(a) the provisions of that sub-section shall apply only in respect of two of such houses, which the assessee may, at his option, specify in this behalf;

(b) the annual value of the house or houses, other than the house or houses in respect of which the assessee has exercised an option under clause (a), shall be determined under sub-section (1) as if such house or houses had been let.

(5) Where the property consisting of any building or land appurtenant thereto is held as stock-in-trade and the property or any part of the property is not let during the whole or any part of the previous year, the annual value of such property or part of the property, for the period up to two years from the end of the financial year in which the certificate of completion of construction of the property is obtained from the competent authority, shall be taken to be nil."

10. It is apposite to recall the Judgment passed by the High Court of Andhra Pradesh in Vivek Jain v. CIT, **(2011) 337 ITR 74,** wherein the High Court had the occasion to interpret Section 23(1)(c) of the IT Act, which is being reproduced as under:

"7. *Under the amended section 23(1)(c), where the property, or any part thereof, is let and was vacant during the whole or any part of the previous year and, owing to such vacancy, the actual rent received or receivable by the owner in respect thereof is less than the sum referred to in clause (a), the amount so received or receivable shall be the annual value of the property. The notes on clauses relating to the*

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amendment to section 23(1) reads thus ((2001) 248 ITR (St.) 35, 118):

"Clause 14 seeks to substitute new section for section 23 of the Income-tax Act relating to determination of annual value of house property.

The existing provision of the said section provides for the determination of annual value of a property in certain circumstances including where the property is let, or is self-occupied, or is vacant, or is partially let, or is let for part of the year. The annual value so determined is subject to the deductions allowable under section 24, including deductions on account of vacancy for any part of the year in respect of the property let, and on account of rent which cannot be realized.

It is proposed to substitute the said section so as to provide for determination of annual value in certain circumstances specified in the proposed new section after allowing deductions in computing the annual value on account of vacancy and unrealized rent.

This amendment will take effect from 1st April, 2002 and will, accordingly, apply in relation to the assessment year 2002-03 and subsequent years."

8. *The effect of substitution of section 23 has been elaborately dealt with in Departmental Circular No. 14 of 2001, the relevant portion of which reads as under ((2001) 252 ITR (St.) 65, 89):*

"29.2. The substituted section 23 retains the existing concept of annual value as being the sum for which the property might reasonably be expected to let from year to year, i.e., annual letting value (ALV). However, in case of let out property, the concept of 'annual rent' has been removed. The new section provides that where the property or any part of the property is let and the actual rent received or receivable is in excess of the ALV, the amount so

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received or receivable shall be the annual value. This will be the case even if the property (or part of the property) was vacant for a part of the year, but the actual rent received or receivable during the year is higher than the ALV. Where the property or any part of the property is let and was vacant during the whole or any part of the previous year and owing to such vacancy, the actual rent received or receivable is less than the ALV, the sum so received or receivable shall be the annual value. In case the actual rent received or receivable during the year is less than the ALV, but not because of vacancy, it is the ALV which shall be taken to be the annual value." (emphasis supplied)

9. *The effect of the amendment has been succinctly explained in Sampath Iyengar's Law of Income Tax (10th edition) as under:*

"The new section provides that the higher of the amount as between what is actually received or receivable and the annual value in relation to what the property might reasonably fetch if let from year to year would be adopted as annual value for purposes of determination of property income. In the result, even where the property is vacant for part of the year, if the rent received for the remaining part is higher than the annual value, it is such annual value which will be adopted because for the component of actual rent what is receivable or received during the year, whichever is higher, will have to be adopted, though it is not so expressly spelt out. But if the actual rent received or receivable is less than the annual letting value, but not because of vacancy, the actual receipt will be the annual value. This impact is more implied than express. But in view of the Board's Circular No. 14 of 2001, this is a matter which is required to be borne in mind, since such an interpretation would dispense with the need for separate deduction for vacancy allowance, though the interpretation as now placed may not take

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into consideration, where the property is vacant for the major period during the year." (emphasis supplied)

10. *While interpreting a statute, the court may not only take into consideration the purpose for which it had been enacted, but also the mischief it seeks to suppress. (Sneh Enterprises v. Commissioner of Customs (2006) 7 SCC 714). It is evident that clause (c) has been inserted as a protection to the assessee in cases where, on account of vacancy, the rent received or receivable on a property which has been let out is less than the sum referred to in clause (a). Prior to its amendment, even in such cases it was the sum referred to in clause (a) which was to be taken as the annual value of the property.*

11. *In order to attract section 23(1)(c), the following requirements must be fulfilled (i) the property, or any part thereof, must be let ; and (ii) it should have been vacant during the whole or any part of the previous year ; and (iii) owing to such vacancy the actual rent received or receivable by the owner in respect thereof should be less than the sum referred to in clause (a). It is only if these three conditions are satisfied would clause (c) of section 23(1) apply in which event the amount received or receivable, in terms of clause (c) of section 23(1), shall be deemed to be the annual value of the property. Clause (c) does not apply to situations where the property has either not been let out at all during the previous year or, even if let out, was not vacant during the whole or any part of the previous year. Under the Explanation to section 23(1), for the purposes of clause (b) or (c), the amount actually received or receivable by the owner shall not include the amount of rent which the owner cannot realize. Self-occupation by the owner of a house would require the annual value of such house, or part of the house, to be taken as nil under section 23(2)(a) and, where the house cannot actually be occupied by the*

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owner on account of his employment, business or profession, as nil under section 23(2)(b) provided that, in terms of section 23(3)(a), the house or part of the house had not actually been let during the whole or any part of the previous year. As a legal fiction is created the word "actually", as used in section 23(3)(c), does not find mention in section 23(1) of the Act.

12. *The construction placed on section 23(1)(c), by Sri B. Chandrasen Reddy, learned counsel for the petitioner, that if there is an intention to let out the property during the relevant year, coupled with efforts being made for letting it out, it must be held the property is let, would necessitate reading words into section 23(1)(c) which do not exist. The words "where the property is let" cannot be read as "where the property is intended to be let". The provisions of a tax statute must be strictly construed. The words of a statute must be understood in their natural, ordinary or popular sense and construed according to their grammatical meaning. (Gurudevdatta VKSSS Maryadit v. State of Maharashtra (2001) 4 SCC 534). The Legislature may be safely presumed to have intended what the words plainly say. (Bhaiji v. Sub-Divisional Officer, Thandla (2003) 1 SCC 692). The intention of the legislation must be found in the words used by the Legislature itself. The question is not what may be supposed and has been intended but what has been said. (Unique Butyle Tube Industries P. Ltd. v. Uttar Pradesh Financial Corporation (2003) 113 Comp Cas 374 (SC) ; (2003) 2 SCC 455). The court must look squarely at the words of the statute and interpret them. It must interpret a taxing statute in the light of what is clearly expressed. It cannot imply anything which is not expressed ; it cannot import provisions in the statute so as to supply any assumed deficiency. The object of this rule is to prevent a taxing statute being construed "according to its intent, though not*

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according to its words". It has even been said that "if the provision is so wanting in clarity that no meaning is reasonably clear, the courts will be unable to regard it as of any effect". (Gursahai Saigal v. CIT (1963) 48 ITR (SC) 1 ; Cape Brandy Syndicate v. IRC (1921) 1 KB 64 ; Bethlehem Hospital, In re [1875] L.R. 19 Eq 457 ; A.V.Fernandez v. State of Kerala [1957] SCR 837 ; IRC v. Bladnoch Distillery Co. Ltd. (1948) 1 All ER 616 ; CST v. Modi Sugar Mills Ltd. [1961]12 STC 182 (SC) ; (1961) 2 SCR 189 ; CIT v. V. MR.P. Firm, Muar, AIR 1965 SC 1216 ; CED v. Kantilal Trikamlal (1976) 105 ITR 92 (SC) ; AIR 1976 SC 1935 ; Aphali Pharmaceuticals Ltd. v. State of Maharashtra(1989) 4 SCC 378 ; 81 STC 113 (SC) ; Baidyanath Ayurved Bhawan P. Ltd. v. Excise Commissioner, AIR 1971 SC 378. The question as to what is covered must be found out from the language according to its natural meaning fairly and squarely read. (IRC v. Duke of Westminster [1936] AC 1 (HL), A.V. Fernandez [1957] SCR 837 Saraswati Sugar Mills v. Haryana State Board (1992) 1 SCC 418). The meaning and intention of a statute must be collected from the plain and unambiguous expression used therein rather than from any notions which may be entertained by the court as to what is just or expedient. The expressed intention must guide the court. (CIT v. Shahzada Nand and Sons (1966) 60 ITR 392 (SC) ; (1966) 3 SCR 379). The Legislature does not waste its words. Ordinary, a grammatical meaning is to be assigned to the words used while interpreting a provision to honour the rule. The Legislature chooses appropriate words to express what it intends and, therefore, must be attributed with such intention as is conveyed by the words employed so long as this does not result in absurdity or anomaly or unless material— intrinsic or external—is available to permit a departure from the rule. (Harbhajan Singh v. Press Council of India (2002) 3 SCC 722).

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15. *The contention that, if the owner had let out the property even for a day, it would acquire the status of "let out property" for the purpose of clause (c) for the entire life of the property even without any intention to let it out in the relevant year is also not tenable. The circumstances in which the annual let out value of a house property should be taken as nil is as specified in section 23(2) of the Act. Under section 23(1)(c), the period for which a let out property may remain vacant cannot exceed the period for which the property has been let out. If the property has been let out for a part of the previous year, it can be vacant only for the part of the previous year for which the property was let out and not beyond. For that part of the previous year during which the property was not let out, but was vacant, clause (c) would not apply and it is only clause (a) which would be applicable, subject of course to sub-sections (2) and (3) of section 23 of the Act. Such a construction does not lead to any hardship, inconvenience, injustice, absurdity or anomaly and, therefore, the rule of ordinary and natural meaning being followed cannot be departed from. (Sneh Enterprises [2006]7 SCC 714). We are in agreement with the interpretation of section 23(1)(c) by the Tribunal, and are of the opinion that the benefit thereunder cannot be extended to a case where the property was not let out at all.*

16. *We find no merit in the submission that the words "property is let" are used in clause (c) to take out those properties which are held by the owner for self-occupation from the ambit of the said clause. As noted hereinabove, section 23(2)(a) takes out a self-occupied residential house, or a part thereof, from the ambit of section 23(1) of the Act. Likewise, under section 23(2)(b), where a house cannot actually be occupied by the owner, on account of his carrying on*

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employment, business or profession at any other place requiring him to reside at such other place in a building not belonging to him, the annual value of the property is also required to be treated as nil, thereby taking it out of the ambit of section 23(1) of the Act. Section 23(3)(a) makes it clear that section 23(2) would not apply if the house, or a part thereof, is actually let during the whole or any part of the previous year. ***Thus, only such of the properties which are occupied by the owner for his residence, or which are kept vacant on account of the circumstances mentioned in clause (b) of section 23(2), fall outside the ambit of section 23(1) provided they are, as stipulated in section 23(3)(a), not actually let during the whole or part of the previous year. Clause (c) was not inserted to take out from its ambit properties held by the owner for self-occupation inasmuch as section 23(2)(a) provides for such an eventuality. It is only to mitigate the hardship faced by an assessee, and as clause (b) does not deal with the contingency where the property is let and, because of vacancy, the actual rent received or receivable by the owner is less than the sum referred to in clause (a), was clause (c) inserted. In cases where the property has not been let out at all, during the previous year under consideration, there is no question of any vacancy allowance being provided thereto under section 23(1)(c) of the Act."***

(emphasis supplied**)**

11. This Court is in agreement with the above view taken by the High Court of Andhra Pradesh.

12. Further, adverting to the matter at hand, it can be observed that the CIT(A) vide an Order dated 29.05.2012 deleted the additions of Rs.3,38,52,595/- by observing that the Respondent/Assessee had an intention to let the vacant properties, however, no suitable tenant was found

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by the Assessee to let out its vacant properties. The CIT(A) after applying Section 23(1)(c) of the IT Act hold that when the said provision is read along with Section 21(1)(a) of the IT Act, the observation which comes out is that if the property remained vacant wholly or partly during the relevant year then actual rent received on receivable will be taken as an ALV of such properties. Since the properties of the Assessee/Respondent remained vacant during the whole relevant year even after putting efforts to let out the properties, the ALV shall be Nil and, therefore, no notional rent can be estimated on vacant properties.

13. On applying the view taken by the High Court of Andhra Pradesh in *Vivek Jain (supra)* to the facts of the present case, it can be observed that Section 23(1)(c) of the IT Act provides for vacancy allowance when it can be shown that the property has been let out in the previous year and despite making genuine efforts or having intention to let out the properties, the properties could be let out or remained vacant during the relevant assessment year . The present case shows that the 4 properties were in fact were let out in the previous years, however, despite making genuine efforts, the Assessee/Respondent could not find the suitable tenant for the 4 vacant properties in the relevant assessment year and therefore, Section 23(1)(c) of the Act will squarely cover the case in favor of the Respondent/Assessee. Further, the ITAT for the same Assessee passed an order for A.Y. 2006-07, thereby deleting the additions on account of notional rent, which was also taken into account by the ITAT while dismissing the appeal of the Revenue.

14. The ITAT on this aspect observed that the issue in the appeal before it was covered in favor of the Assessee *vide* an order of the ITAT for A.Y. 2006-2007, whereby the additions on notional rent was deleted by the ITAT,

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which was also relied on by the Revenue/Appellant herein. The said observation of the ITAT is reproduced herein:

> *" 134. Ground No. 29 is against deletion of addition of Rs. 3,28,52,5951on account of notional rent on vacant properties. The A0 has made reference to observation of special auditor and finding in preceding AY 2005-06 and 2006-07 wherein identical addition was considered. The CIT(A) has deleted the addition by relying upon decision of Tribunal in the case of sister concern of the assessee MIS DLF Office Developers Ltd. Vs. AClT reported in 23 SOT 19 (Del) . Further, CIT(A) has also discussed relevant legal provisions while holding that only actual rent received is assessable under income from house property and no notional rent could be charged.*
>
> *135. The ld. CIT DR relied upon order of AO. On the other hand, ld. Counsel for the assessee argued that this issue iscovered in the favour of assessee by t'he order of tribunal for immediately preceding AY 2006-07 in which the tribunal has deleted the addition on account of notional rent.*
>
> *136. We have heard the rival submission and considered' the order of the ITAT for A.Y. 2006-07. Whereas the Ld. AR relied on the order of ITAT, the ld. CIT DR has relied on order of the AO.* ***However, the ld. CIT DR was fair enough to accept that this issue is covered in favour of the assessee vide order of ITAT for A.Y. 2006-07.*** *In view of the above position, no interference is called for in the order of CIT(A) and. accordingly this ground of revenue is dismissed.*
>
> (Emphasis Supplied)

15. It is well settled that ITAT is the final authority of the facts and this Court can only interfere with the decision of the ITAT when there is

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substantial question of law or the decision suffers from perversity or it is manifestly illegal. The Apex Court in M. Janardhana Rao v. CIT, **(2005) 2 SCC 324** has held that:

> ***"14.*** *Without insisting on the statement of substantial question of law in the memorandum of appeal and formulating the same at the time of admission, the High Court is not empowered to generally decide the appeal under Section 260-A without adhering to the procedure prescribed under Section 260-A. Further, the High Court must make every effort to distinguish between a question of law and a substantial question of law. In exercise of powers under Section 260-A, the findings of fact of the Tribunal cannot be disturbed. It has to be kept in mind that the right of appeal is neither a natural nor an inherent right attached to the litigation. Being a substantive statutory right, it has to be regulated in accordance with law in force at the relevant time. The conditions mentioned in Section 260-A must be strictly fulfilled before an appeal can be maintained under Section 260-A. Such appeal cannot be decided on merely equitable grounds."*

16. Ld. Counsel for the Revenue has also relied upon *Ansal (Supra)* whereby this Court has observed that properties in questions were never let out any previous years and therefore no vacancy allowance can be granted to the Asseesse in view of Section 23(1)(c) of the Act. However, the same is not applicable in the present facts and circumstances as the 4 properties which remained vacant in the relevant assessment year were let out for the previous years which shows that the Assessee/Respondent herein had an intention to let out the properties and ,therefore, Section 23(1)(c) of the Act will grant vacancy allowance to the Assessee/Respondent.

17. Therefore, it is clear that the Revenue's case does not raise any

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substantial question of law warranting any interference by this Court.

18. The Appeal is accordingly dismissed.

SUBRAMONIUM PRASAD, J

RENU BHATNAGAR, J

NOVEMBER 18, 2026
KG

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Signing Date:19.11.2026 16:09:49