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

\# **CNR No. DLHC010360142019**

\+ ITA 800/2019

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

Through: Mr. Puneet Rai, SSC with Mr.Ashvini Kr. & Mr. Rishabh Nangia, JSCs

versus

ESCORTS LTD. .....Respondent

Through: Mr. Simran Mehta, Adv

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

O R D E R

% 05.08.2026

1. The present appeal preferred by the Revenue/Department under Section 260A of the Income Tax Act, 1961, is directed against order dated 06.03.2019 passed by the Income Tax Appellate Tribunal, Delhi Bench 'B', New Delhi (hereinafter referred to as '*the Tribunal*') in ITA No.4673/Del/2005 and ITA No.84/Del/2006 for Assessment Year 2002-03. The said order was passed in an appeal preferred by the Revenue, against the order dated 31.10.2005 whereby the Commissioner of Income Tax (Appeals) (hereinafter referred to as '*CIT(A)*') had set aside the disallowance of the Upfront Fee paid to the bank of Rs.3,12,75,000/- made by the Assessing Officer vide his order dated 31.03.2005, on the ground that the same was of enduring nature and thus should have been capitalized.

2. Mr. Rai, learned senior standing counsel for the appellant/Department, argued that the Upfront Fees which the assessee had paid for obtaining a loan cannot be said to be in the nature of revenue expenditure because the loan might have been used for capital expenditure as well as revenue expenditure and without recording a concrete finding or bifurcation about the use, the Appellate Authorities were not legally justified in setting aside the disallowance made by the Assessing Officer.

3. Mr. Mehta, learned counsel for the respondent/assessee, on the other hand, submitted that both the CIT(A) and the Tribunal have relied upon a ceremonial judgment of Hon'ble the Supreme Court rendered in the case of ***India Cements Ltd. v. CIT*** reported in **(1966) 60 ITR 52 (SC)** and argued that Hon'ble the Supreme Court has settled the legal position way back in the year 1966 holding that any expenditure incurred towards obtaining a loan is revenue in nature and the Assessing Officer cannot examine as to what use the loan was put. He submitted that since the legal position is settled, no interference is warranted.

4. Having heard learned counsel for the parties and upon going through the judgment of Hon'ble the Supreme Court in the case of ***India Cements (supra)***, we find that even when the loan was utilized for purchase of capital assets, then also Hon'ble the Supreme Court had held that the expenditure incurred towards securing such loan is a revenue expenditure. If that be so, in other cases, where, the loan has been put to capital as well as revenue expenditure, there cannot be any reason for the Assessing Officer to treat the same as a capital expenditure and disallow the expenditure claimed by the assessee.

5. Both the Appellate Authorities have concurrently held in favour of the

assessee, following the judgment of Hon'ble the Supreme Court in the case of ***India Cements (supra)***.

6. Further, the matter relates to Assessment Year 2002-03. Firstly, we hardly find any question of law to have been involved and even if there is some scope for arguments, ultimately it is only a question of the expenditure being revenue or capital. If after more than 20 years of passing the assessment order, we hold the expenditure to be of capital expenditure, all the returns of the assessee will have to be revised/rectified and the Assessing Officer so also the assessee will have to re-do the entire exercise, of calculating profit and allowing depreciation, which will lead to administrative hazards with no revenue generation to the Department.

7. Having decided this issue, the remaining issues, so far as question nos.2.1, 2.2, 2.4 & 2.5, which are reproduced hereinbelow, are concerned, the same are covered in favour of the assessee in its own case, decided by this Court vide its order dated 27.04.2026 passed in **ITA 1427/2006.**

> *"2.1 Whether the ITAT is correct in law and on facts in deleting the disallowance of Rs.2,11,49,390/- out of Administrative Expenses of Rs.2,19,36,390/- and Rs.l6,42,52,761/- out of interest expenses of Rs.16,55,00,000/- made by the Assessing officer under section 14A of the Income Tax Act, 1961?*
>
> *2.2 Whether the ITAT is correct in law and in facts in deleting the disallowance of Rs.22,54,277/- made by the Assessing officer on account of Redemption of SPNs?*
>
> *2.4 Whether the ITAT is correct in law and in facts deleting in the disallowance of Rs.78,56,810/- made on account of 'Development of the existing product and prototype product' ignoring that such expenditure imparted a benefit of enduring nature and as such was of capital in nature?*

2.5 Whether the ITAT is correct in law and in facts in deleting disallowance of Rs.4,56,00,000/- made by the Assessing officer on account of interest on interest Free loan given by the erstwhile M/s Escorts Tractor Ltd. to its subsidiary company M/s Escotrac Finance & Investment Ltd. prior to its amalgamation with the Assessee company in F.Y. 1995-96?"

8. We have heard learned counsel for the parties, perused the questions so also the order dated 27.04.2026 passed in **ITA 1427/2006,** in which we had observed as thus:

"2. So far as question no.(i) in relation to deletion of addition of Rs.l,71,30,343/- made under Section 2(24)(iv) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act of 1961') is concerned, learned counsel for the appellant informs that this particular amount has been taxed in subsequent year 2006-07 and the assesse has paid requisite tax.

3. In view of the subsequent development, the appeal qua this question no.(i) is rejected.

4. Advancing arguments qua question no. (ii) to (v), Mr. Sunil Agrawal, learned Senior Standing Counsel for the appellant relied upon the Tribunal's order dated 27.11.2018 and findings recorded therein to argue that the Tribunal has not properly appreciated the facts.

5. Learned counsel for the respondent, on the other hand, argued that question no. (ii) to (v) essentially emanate out of evidence and is based upon pure findings of facts which have been concurrently recorded by two Appellate Authorities (i.e. CIT and the Tribunal) and no question of law arises.

6. Having heard learned counsel for the parties and considering that the Tribunal has confirmed the deletion of the addition of Rs.10,37,275/- in relation to disallowance of *expenditure for expansion and diversification; Rs. 4.56 being interest fee/loan advanced to Escorts Ltd. and Investment Ltd. and disallowance made by the AO under Section 14A of the Act of 1961.*

7. We do not find any perversity in the findings recorded by the Commissioner of Income Tax (Appeals) and which have been affirmed by the Tribunal. According to us, no substantial question of law arises for our consideration. The appeal qua question no. (ii) to (v) is also therefore rejected.

8. The appeal is therefore rejected."

9. Following the reasoning given, while deciding in **ITA 1427/2006**, which are reproduced hereinabove, the present appeal is also dismissed.

DINESH MEHTA, J

RAJNEESH KUMAR GUPTA, J

AUGUST 5, 2026
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