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

\# **CNR No. DLHC010360922019**

\+ ITA 804/2019

THE PR. COMMISSIONER OF INCOME TAX -3 .....Appellant
Through: Mr. Puneet Rai, SSC along with Mr. Ashvini Kr. and Mr. Rishabh Nangia, JSCs.

versus

ESCORTS LTD. .....Respondent
Through: Mr. Simran Mehta, Advocate.

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

ORDER

% **13.08.2026**

1. The Revenue has preferred the present appeal for raising the following substantial questions of law:

> *"2.1 Whether on the facts and circumstances of the case and in law, ld. ITAT is correct in law and in fact in deleting addition of Rs.22,00,00,000/- made out of interest expenses?*
>
> *2.2 Whether on the facts and circumstances of the case and in law, ld. ITAT is correct in law in and in fact in deleting the disallowance of Rs.98,25,000/-i.e. 25% of royalty amounting to Rs.3.93 crorees made to M/s Harprasad& Company Ltd?"*

2. So far as question no. 2.1 is concerned, Mr. Simran Mehta, learned counsel for the respondent pointed out that the addition of Rs. 22 crores in relation to addition, is not, as a matter of fact, addition of any interest

payment of loan or any advance given to the subsidiary company, but such amount was added by the Assessing Officer (AO) on the presumption that, had the assessee company not made any investment in the shares of its subsidiary companies, and instead invested this amount for its own business, it would not be required to take loan and, consequently, would have saved the interest burden which it had to pay to its lenders.

3. According to us, such view of the AO is *per se* erroneous. He cannot sit in the armchair of the assessee and make additions or disallow proportionate interest on the basis of conjectures and surmises.

4. In relation to question no. 2.2, reproduced hereinabove, we are of the view that 0.25% royalty has been paid by the respondent-assessee to M/s Harprasad & Company Ltd., for the use of the brand name 'Escort'. The factum of its admissibility is not in dispute, so also, the fact that it conforms to the yardsticks laid down under Section 37 of the Income Tax Act, 1961. In these circumstances, we fail to comprehend as to how the amount of 0.25% which was agreed to be paid on the sales or revenue generated by the respondent each year, can at all be considered to be a capital expenditure by any stretch of imagination !

5. We do not find any error in the order of the Tribunal, let alone question to be examined.

6. The appeal is, therefore, rejected on both the accounts.

DINESH MEHTA, J.

RAJNEESH KUMAR GUPTA, J.

AUGUST 13, 2026/v