$~23

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

\# **CNR No. DLHC010361132019**

\+ ITA 802/2019

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. On the previous date of hearing, we had dismissed the Revenue's appeal insofar as question nos. 2.1, 2.3, 2.4 and 2.5 were concerned, and had adjourned the appeal as regards question no. 2.2, while observing as under:

> *"5. The appeal qua question nos.2.1, 2.3, 2.4 & 2.5 is, therefore, dismissed.*
>
> *6. In relation to question no.2.2, Mr. Mehta, learned counsel for the respondent/assessee, submitted that the question, as proposed by the Revenue, is factually incorrect, inasmuch as the assessee had not given any interest free loan to its subsidiary it was an investment in the shares of the subsidiary company, which the assessee had made. And the funds which the assessee company had invested were its self-generated funds and not borrowed fund."*

2. Mr. Puneet Rai, learned Senior Standing Counsel appearing on behalf of the Department, having examined the record, could not refute Mr. Mehta's above noted contention that the assessee had not advanced any interest free loan to its subsidiaries and as a matter of fact, had invested in their shares.

3. Mr. Simran Mehta, learned counsel for the respondent pointed out that the Assessing Officer (AO) has made the addition on the presumption that, had the assessee invested this money for his own business, he would not be required to take loan and could have saved interest expenses and such notional part of the interest has been disallowed.

4. 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 disallowances on the basis of hypothesis or conjectures and surmises. Such, being the position and in view of our order dated 05.08.2026 and the order instant, the appeal in its entirety stands dismissed.

DINESH MEHTA, J.

RAJNEESH KUMAR GUPTA, J.

AUGUST 13, 2026/v