$~101 to 103 and 107

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

\+ ITA 459/2025

\+ ITA 460/2025

\+ ITA 461/2025

\+ ITA 465/2025

PRINCIPAL COMMISSIONER OF INCOME TAX (CENTRAL-3), DELHI .....Appellant

Through: Mr. Abhishek Maratha, SSC, Mr. Apoorv Agarwal, Mr. Parth Samwal, JSCs and Ms. Nupur Sharma, Mr. Gaurav Singh, Mr. Bhanukaran Singh Jodha, Ms. Muskaan Goel, Mr. Himanshu Gaur and Mr. Nischay Purohit, Advs.

versus

KRISHAK BHARATI CO-OPERATIVE LTD. .....Respondent

Through: None

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO
HON'BLE MR. JUSTICE VINOD KUMAR

O R D E R

% **22.09.2025**

CM APPL. 60327/2025 and CM APPL. 60335/2025 *(Exemption)*

1. Exemptions allowed, subject to all just exceptions.

2. The applications are disposed of.

ITA 459/2025, CM APPL. 60325/2025, CM APPL. 60326/2025,
ITA 460/2025, CM APPL. 60330/2025,
ITA 461/2025, CM APPL. 60333/2025, CM APPL. 60334/2025,
ITA 465/2025 CM APPL. 60435/2025

3. Mr. Apoorv Agarwal states, he shall press these appeals only on questions of law being 1 and 2 (at pages 19 and 20) of the appeal being 459/2025 :

"(1) Whether on the facts and circumstances of the case and in

the provision of law, the Tribunal was justified in dismissing the appeal filed by the revenue against the order of Ld. CIT(A), New Delhi ignoring explanation to proviso to section 14A (2), which states that the provision of section 14A shall apply and shall be deemed to have always applied in a case where the income, not forming the part of total income under this Act, has not accrued or arisen or has not been received during the previous year relevant to an assessment year and the expenditure has been incurred during the said precious year in relation to such income not forming part of the total income?

(2) Whether on the facts and circumstances of the case and in law, the Tribunal was justified in dismissing the appeal filed by the revenue against the order of Ld. CIT(A), New Delhi ignored the CBDT's Circular No. 02/2014 dated 11.02.2014 in which CBDT clearly clarified that Rule 8D read with section 14A of the Act provides for disallowance of expenditure even where taxpayer in a particular year has not earned any exempt income?

(3) Whether on the facts and circumstances of the case and in the provisions of the law is it correct to hold that the dividend income earned by the assessee is taxable but exempted under the Omani Law to entitle assessee to the benefits of the Double Taxation Avoidance Agreement between India and Oman?

(4) Whether on the facts and circumstances of the case and also on the prevailing law, Hon'ble ITAT not consider that foreign tax credit is allowable only when tax has been actually paid in foreign country (Oman) and the benefit of para-4 of Article 25 of Indo-Oman DTAA is not available to assessee in view of the absence of any credit evidence to establish that mere non-taxation of dividend income in Oman can be construed to mean 'tax incentive designed to promote economic development as required under article 24(4) of Indo-Oman DTAA?"

4. Issue notice through all permissible modes, returnable on 24.03.2026.

V. KAMESWAR RAO, J

VINOD KUMAR, J

SEPTEMBER 22, 2025

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