

OD 25 to 27

ORDER SHEET

IN THE HIGH COURT AT CALCUTTA
SPECIAL JURISDICTION (INCOME TAX)
ORIGINAL SIDE

ITAT/76/2026
IA NO: GA/1/2026

LOHARUKA INFRASTRUCTURE PRIVATE LTD.
VS
PRINCIPAL COMMISSIONER OF INCOME TAX, CENTRAL -2, KOLKATA

ITAT/77/2026
IA NO: GA/1/2026

LOHARUKA INFRASTRUCTURE PRIVATE LTD.
VS
PRINCIPAL COMMISSIONER OF INCOME TAX, CENTRAL-2, KOLKATA

ITAT/78/2026
IA NO: GA/1/2026

LOHARUKA INFRASTRUCTURE PRIVATE LTD.
VS
PRINCIPAL COMMISSIONER OF INCOME TAX, CENTRAL -2, KOLKATA

BEFORE:

The Hon'ble JUSTICE RAJARSHI BHARADWAJ
AND

The Hon'ble JUSTICE UDAY KUMAR

Date: 6th May, 2026.

Appearance:
Mr. J.P. Khaitan, Sr. Adv.
Ms. Anupa Banerjee, Adv.
Ms. Sretapa Sinha, Adv.
...for the appellant

Mr. Prithu Dudhuria, Adv.
...for the respondent

The Court: We have heard learned advocates on either side.

The appeals are admitted on the following substantial questions of law for consideration.

“(A) Whether any addition can be made in the appellant's assessment under section 153A of the Income Tax Act, 1961 when admittedly no incriminating material was found in the search carried out against it?

(B) Whether having found merit in the argument of the appellant that there was no justification for making any addition in the hands of the appellant with reference to the diaries seized from an employee of Shri Devanand Narayanrao Kotgire in course of the search action against the said Shri Kotgire, the Tribunal was justified in law in setting aside the order of the Commissioner of Income Tax (Appeals) and its purported findings in that behalf are arbitrary, unreasonable and perverse?

(C) Whether the Tribunal was justified in law in allowing the revenue's appeal and remanding the matter to the Commissioner of Income Tax (Appeals) with various directions and whether such directions are beyond the scope of the appeal before the Tribunal and/or are otherwise arbitrary, unreasonable and illegal ?

(D) Whether the Tribunal was justified in requiring the appellant to produce evidence that the amount had been

owned up and disclosed by any other person or was assessable in the hands of any other person in order to have the addition excluded from its assessment ?

(E) Whether diaries seized from the employee of Devanand Narayanrao Kotgire in course of the search carried out against the said Shri Kotgire can be used for making an addition in the appellant's assessment when there is no satisfaction of the Assessing Officer of the said Shri Kotgire in terms of section 153C that the information contained therein relates to the appellant, the said Assessing Officer having already assessed the said Shri Kotgire fully on the basis of such diaries ?

(F) Whether and in any event the Tribunal ought to have taken into consideration the fact that copies of the diaries seized from the said Shri Kotgire's employee were never supplied to the appellant and the appellant was not afforded any opportunity to cross-examine the said Shri Kotgire in spite of request ?”

Mr. J.P. Khaitan, learned senior counsel appearing for the appellant submits that as all the papers in relation to the above three appeals are annexed with the application for stay, the matter can be heard without filing of paper book and prays for an ad-interim order.

Learned advocate-on record of appellant is requested to serve copies of the Memorandum of Appeal and application for stay upon the

respondent/department within two weeks from date so the matters can be heard on the questions that have been framed today.

Let these matters again appear in the list on 20th May 2026 under the heading 'To Be Mentioned'.

(RAJARSHI BHARADWAJ, J.)

(UDAY KUMAR, J.)