

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition for Special Leave to Appeal (C) No.7546/2026

[Arising out of impugned final judgment and order dated 28-11-2025 in TA No. 5/2024 passed by the High Court of Judicature at Bombay at Goa]

THE JOINT COMMISSIONER OF INCOME TAX, PANJI & ORS. Petitioner(s)

VERSUS

M/S. COLORCON ASIA PVT. LTD. Respondent(s)

FOR ADMISSION

Date : 13-05-2026 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MANOJ MISRA
HON'BLE MR. JUSTICE MANMOHAN

For Petitioner(s) :Mr. N Venkataraman, A.S.G.
Mr. Sudarshan Lamba, AOR
Mr. Amit Sharma B, Adv.
Mr. Prashant Singh Ii, Adv.
Mr. Amit Sharma V, Adv.
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For Respondent(s) :Mr. Porus Kaka, Sr. Adv.
Mr. Manish Kanth, Adv.
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Ms. Shradha Zutshi, Adv.

Mr. V Sridharan, Sr. Adv.
Ms. Charanya Lakshmikumaran, AOR
Ms. Nitum Jain, Adv.
Ms. Neha Choudhary, Adv.
Mr. L Badri Narayanan, Adv.
Mr. Swastik Mishra, Adv.
Ms. Medha Sinha, Adv.
Mr. Atrey Gc, Adv.

Mr. Rajiv Shakhder, Sr. Adv.
Mr. Mukesh Butani, Adv.
Mr. Shankey Agrawal, AOR
Ms. Seema Kejriwal, Adv.
Mr. Harsh Shukla, Adv.

Mr. Karan Khetani, Adv.
Mr. Jonathan Ivan Rajan, Adv.
Mr. Niyas Valiyathodi, Adv.
Ms. Shruti Agarwal, Adv.
Mr. Siddharth Agrawal, Adv.
Ms. Mansi Mathur, Adv.

UPON hearing the counsel the Court made the following
O R D E R

The following substantial questions of law arise for consideration in the present special leave petition:

- i. Whether tax under Section 115-0 on any amount declared, distributed or paid by a company by way of dividend chargeable to additional income tax is in the nature of tax on distributed profits or tax on dividend?
- ii. Whether Dividend Distribution Tax (DDT) paid by the respondent company on amounts declared, distributed and paid as dividend [as defined under the India-UK Double Taxation Avoidance Agreement (DTAA) and the Income Tax] to a resident of UK can be levied at a rate higher than permitted under the treaty; and
- iii. Whether DDT being an income tax or an identical and/or substantially similar tax is governed by UK DTAA.

It has been brought to our notice that the correctness of the decision impugned in this special leave petition has been doubted by a coordinate bench of the Bombay High Court vide order dated 27.04.2026 passed in Income Tax Appeal No.1123 of 2025 (*Foseco India Ltd. Company vs. Assistant Commissioner of Income Tax, Circle (1), Pune*). A copy of the order dated 27.04.2026 has been

placed before us. In paragraph 40 of the said order, the following questions have been referred to a larger bench of the High Court. The said paragraph is reproduced herein under:

40. In our respectful opinion, in these circumstances, the following questions of law are required to be answered by the Larger Bench:

(I) Whether the decision of the Division Bench in M/s. Colorcon Asia Pvt. Ltd. vs. The Joint Commissioner of Income Tax, Panji Goa and Ors. (Tax Appeal No.5/2004 decided on 28 November, 2025) lays down the correct position in law when it holds that, Dividend Distribution Tax (DDT) is a tax paid by the Company, on dividend income of the shareholder, entitling the shareholder of the benefit of the provisions of Double Taxation Avoidance Agreement (DTAA) between India and UK?

(ii) Considering the decision of the Supreme Court in Godrej and Boyce Pvt. Ltd. (supra), whether the decision of the Division Bench in M/s Colorcon Asia Pvt. Ltd. (supra) is *per incuriam*?

Having regard to the ramifications of the aforesaid questions being answered either way, several intervention applications (IA No.143674/2026, IA No.147312/2026, IA NO.146726/2026 and IA No.151478/2026) have been filed. To enable the parties to make their submissions before us, the intervention applications are allowed.

Having regard to the fact that similar issue may have arisen before other High Courts also, we deem it appropriate to direct that the Registry of this Court shall circulate this order to all the High Courts. The Registry of the each High Court shall publish this order in the

cause list of the High Court informing the parties about the matter being considered by us. Such exercise may be completed within a period of three weeks from today.

If any intervention application needs to be made before us, the same may be made by 15.07.2026.

List on 12.08.2026.

In the meantime, the High Courts may consider staying the further proceedings of any matter involving similar issues.

(KRITIKA TIWARI)
SENIOR PERSONAL ASSISTANT

(SAPNA BANSAL)
COURT MASTER (NSH)