

\$~S-53&54

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

+ ITA 376/2022

PR. COMMISSIONER OF INCOME TAX-7 Appellant

Through: Mr.Puneet Rai, Sr.Standing Counsel
with Ms.Adeeba Mujahid, Jr.Standing
Counsel and Mr.Nikhil Jain,
Advocate.

versus

**RAJDARBAR HERITAGE VENTURE LTD. (FORMERLY
KNOWN AS GLOBAL HERITAGE VENTURE LTD.)**

..... Respondent

Through: None.

+ ITA 377/2022

PR. COMMISSIONER OF INCOME TAX-7 Appellant

Through: Mr.Puneet Rai, Sr.Standing Counsel
with Ms.Adeeba Mujahid, Jr.Standing
Counsel and Mr.Nikhil Jain,
Advocate.

versus

**RAJDARBAR HERITAGE VENTURE LTD. (FORMERLY
KNOWN AS GLOBAL HERITAGE VENTURE LTD.)**

..... Respondent

Through: None.

%

Date of Decision: 06th October, 2022

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

J U D G M E N T

MANMOHAN, J (Oral):

CM APPL.43152/2022 in ITA 376/2022 (Exemption)

CM APPL.43154/2022 in ITA 377/2022 (Exemption)

1. Allowed, subject to all just exceptions.
2. Accordingly, the applications stand disposed of.

CM APPL.43153/2022 in ITA 376/2022

CM APPL.43155/2022 in ITA 377/2022

3. Keeping in view the averments in the applications, the delay in filing the present appeals is condoned.
4. Accordingly, the applications stand disposed of.

ITA 376/2022

ITA 377/2022

5. Present Income Tax Appeals have been filed challenging the common Impugned Order dated 5th October, 2020 passed by the Income Tax Appellate Tribunal ('ITAT') in ITA Nos.262/Agra/2016 and 387/Agra/2017 for the Assessment Years 2012-13 & 2013-14.
6. Learned Counsel for the Appellant states that the ITAT has erred in deleting the additions of Rs.8,57,25,871/- & Rs.16,15,54,801/- for the Assessment Years 2012-13 & 2013-14 respectively made by the Assessing Officer, ignoring the fact that the FDR is in the name of the Assessee and interest has accrued and been credited in the name of the Assessee only and the share of the disputed parties in the interest will arise only after payment of due taxes.
7. Learned counsel for the appellant emphasizes that the dispute between the parties was with regard to 100 crores, whereas the amount deposited was in excess of Rs.190 crores. He also states that under the final settlement

agreement dated 20th January, 2015 between the Assessee Company and M/s Pramerica ASPF II Cyprus Holding Ltd. Assessee Company paid Rs.70 crore to M/s Pramerica ASPF II Cyprus Holding Ltd. from the FDR amount and that this agreement was accepted by the Delhi High Court Mediation and Conciliation Centre on 8th April, 2015, pursuant to which a final order dated 9th April 2015 was passed by this Court.

8. Having perused the paperbook, this Court finds that in the present cases, the FDRs were made in the name of the respondent-assessee by virtue of a consensual order dated 7th October, 2021 passed by the Arbitral Tribunal comprising three retired judges. The relevant portion of the said order is reproduced hereinbelow:-

“The Ld. Counsel for the parties have agreed and requested for the following agreement of theirs being taken on record:-

- (i) That the amount of Rs.1,90,25,12,694.09 which is lying in current account with Punjab National Bank in Tribunal’s Bank Account No.2254002100017121 may be converted into a Fixed Deposit in the name of the Respondent company i.e. Global Heritage Venture Ltd. The fixed deposit shall be for a period of 60/61 days. This is being done solely for the consideration that the amount may earn interest. The interest would go with the deposit or be distributed between the parties as the Tribunal may direct.*
- (ii) That such deposit shall be subject to the following conditions:-*
 - a) The FDR shall soon on being ready would be handed over to the Presiding Arbitrator and shall remain in his custody unless otherwise ordered by the Tribunal.*
 - b) Though the FDR is in the name of the Respondent company, but the Bank holding the fixed deposit shall note that the amount of FDR is not to be released nor to be made available for ‘use in any manner whatsoever except by prior permission of*

the Tribunal or unless otherwise directed by the Tribunal.”

9. Consequently, this Court in agreement with the finding of the two Appellate Authorities below that till the final award was passed by the Arbitral Tribunal determining the ownership of the fixed deposits and interest, it could not be said that the interest income had crystallized in the respondent's hands and the same cannot be held to be income of the respondent-assessee under Section 5(1) of the Income Tax Act, 1961 ('the Act').

10. Accordingly, no substantial question of law arises for consideration in the present appeals and the same are dismissed.

MANMOHAN, J

MANMEET PRITAM SINGH ARORA, J

OCTOBER 6, 2022
TS