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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ ITA 420/2024

PR. COMMISSIONER OF INCOME TAX -15, DELHI

.....Appellant
Through: Mr. Puneet Rai, SSC, Mr. Ashvini
Kumar, JSC, and Mr. Rishabh
Nangia, Adv.

versus

NIVESH GROUP

.....Respondent
Through: Ms Rano Jain, Mr. Venketesh
Chaurasia, Ms Mansi Jain and Mr.
Tanishq Ahuja, Advs.

CORAM:
HON'BLE MR. JUSTICE DINESH MEHTA
HON'BLE MR. JUSTICE VINOD KUMAR

ORDER
30.03.2026

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1. Learned counsel for respondent submitted that the appeal in hands cannot continue, as the tax effect involved in the present appeal is below the limits as prescribed in CBDT Circular No.5/2024 dated 15.03.2024 read with Circular No. 9/2024 dated 17.09.2024.

2. In this regard, learned counsel for the respondent submitted that pursuant to the order dated 26.03.2022 passed by the Principal Commissioner of Income Tax, Delhi-15 (*hereinafter referred to as 'the Authority'*) under Section 263 of the Income Tax Act, 1961 (*hereinafter referred to as 'the Act of 1961'*), the Assessing Officer (AO) has passed a notice dated 28.03.2023 giving effect to such order of the Authority and



raised a demand of Rs.1,03,31,014/-. And since such demand is below Rs.2 Crores, the appeal is liable to be dismissed.

3. Mr. Puneet Rai, learned Senior Standing Counsel for the appellant-Income Tax Department, on the other hand, invited Court's attention to para 3.1.f of the circular no. 5 of 2024 and argued that such para excludes the matters arising out of the order passed by the Authority under Section 263 of the Act of 1961.

4. Learned counsel for the respondent-assessee, at this juncture, placed for perusal of the Court an order dated 04.12.2025 passed by the Coordinate Bench of this Court in ITA 429/2025 (of which one of us, Mr. Vinod Kumar, J. was a member).

5. Having heard learned counsel for the parties and after going through the above referred order dated 04.12.2025 relied upon by learned counsel for the respondent, we are of the view that in light of the said order which was passed relying upon Allahabad High Court judgment in the case of **Principal Commissioner of Income-tax v. Bhupendra Sharma (HUF)**, IT Appeal No. 61 of 2024, decided on August 7, 2024, the appeal is liable to be dismissed because in identical circumstances, this Court has dismissed the appeal in light of the circulars. The relevant paras of the order dated 04.12.2025 passed by the Coordinate Bench read thus :

“4. According to him, as the tax effect has been shown as Rs.1,30,66,999/-, which is less than Rs.2 crores, the present appeal should be dismissed as not maintainable, because of low tax effect.

5. Keeping in view of the circular 5 of 2024 read with circular no. 9 of 2024, the submission of Mr. Shlok Chandra SSC is that the present appeal is maintainable as the same falls within the exception clause carved out in the circular no. 5 of 2024. More specifically 3.1(f), which reads as under :

“3.1. f. Where the tax effect is not quantifiable or not involved, such as the case of registration of trusts or



institutions under sections 10(23C), 12/A/12AA/12AB of the Act, order passed u/s 263 of the Act etc. The reference to cases involving sections referred here, where it is not possible to quantify tax effect or tax effect is not involved, is for the purpose of illustration only.”

6. It is his submission that a reading of the clause would reveal that in certain cases where the tax effect cannot be quantified, like under Sections 10(23C), 12/A/12AA/12AB or an order passed u/s 263 of the Act, the appeal shall be maintainable.

7. At this stage, learned counsel for the respondent has relied upon the judgment of the Allahabad High Court in the case of **Principal Commissioner of Income-tax v. Bhupendra Sharma (HUF)**, IT Appeal No. 61 of 2024, decided on August 7, 2024 to contend that in similar facts wherein an order was passed under Section 263 of the Act remanding the matter to the Assessing Officer with a direction to pass a fresh Assessment Order after making certain inquiries and the Assessing Officer had quantified the return income as Rs.32,61,751/-, the Allahabad High Court by noting the clause 3.1(f) of the circular of 5 of 2024 has dismissed the appeal filed by the Revenue as not maintainable.

8. Having seen the judgment passed by the Allahabad High Court and also the fact that after the order under Section 263 of the Act was passed by the PCIT in the case in hand, the Assessing Officer having passed the Assessment Order of which reference has been made in the aforesaid paragraph, we are of the view that keeping the question of law as raised by Mr. Chandra before us and in view that the net tax effect depicted by the appellant in the appeal paper book as Rs.1,30,66,999/- which is less than Rs.2 Crores, open, the appeal be closed.”

6. We, therefore, dismiss instant appeal in light of the circular no. 5 of 2024 dated 15.03.2024 and circular no. 9 of 2024 dated 17.09.2024.

DINESH MEHTA, J

VINOD KUMAR, J

MARCH 30, 2026/ dd