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

R-65

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ITA 101/2002

COMMISSIONER OF INCOME TAX DELHI Appellant
Through: Mr Rohit Madan, Senior Standing
Counsel and Mr Zoheb Hossain, Advocates.

versus

ATMA RAM PROPERTIES P. LTD. Respondent
Through: Mr V.P. Gupta and Mr Anunav Kumar,
Advocates.

WITH

R-65-A

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ITA 841/2007

ATMA RAM PROPERTIES P. LTD. Appellant
Through: Mr V.P. Gupta and Mr Anunav Kumar,
Advocates.

versus

COMMISSIONER OF INCOME TAX DELHI Respondent
Through: Mr Kamal Sawhney, Senior Standing
Counsel with Mr Raghvendra Singh, Junior
Standing Counsel.

WITH



R-65-B

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ITA 848/2007

ATMA RAM PROPERTIES P. LTD. Appellant
Through: Mr V.P. Gupta and Mr Anunav Kumar,
Advocates.

versus

COMMISSIONER OF INCOME TAX DELHI - I Respondent
Through: Mr Kamal Sawhney, Senior Standing
Counsel with Mr Raghvendra Singh, Junior
Standing Counsel.

WITH

R-65-C

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ITA 849/2007

ATMA RAM PROPERTIES P. LTD. Appellant
Through: Mr V.P. Gupta and Mr Anunav Kumar,
Advocates.

versus

COMMISSIONER OF INCOME TAX DELHI - I Respondent
Through: Mr Kamal Sawhney, Senior Standing
Counsel with Mr Raghvendra Singh, Junior
Standing Counsel.

WITH

R-65-D

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ITA 850/2007

ATMA RAM PROPERTIES P. LTD. Appellant
Through: Mr V.P. Gupta and Mr Anunav Kumar,



Advocates.

versus

COMMISSIONER OF INCOME TAX DELHI - I Respondent
Through: Mr Kamal Sawhney, Senior Standing
Counsel with Mr Raghvendra Singh, Junior
Standing Counsel.

WITH

R-65-E

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ITA 859/2007

ATMA RAM PROPERTIES P. LTD. Appellant
Through: Mr V.P. Gupta and Mr Anunav Kumar,
Advocates.

versus

COMMISSIONER OF INCOME TAX DELHI Respondent
Through: Mr Kamal Sawhney, Senior Standing
Counsel with Mr Raghvendra Singh, Junior
Standing Counsel.

WITH

R-65-F

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ITA 860/2007

ATMA RAM PROPERTIES P. LTD. Appellant
Through: Mr V.P. Gupta and Mr Anunav Kumar,
Advocates.

versus

COMMISSIONER OF INCOME TAX DELHI Respondent



Through: Mr Kamal Sawhney, Senior Standing Counsel with Mr Raghvendra Singh, Junior Standing Counsel.

R-65-G

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ITA 162/2003

ATMA RAM PROPERTIES P. LTD. Appellant
Through: Mr V.P. Gupta and Mr Anunav Kumar,
Advocates.

versus

DY. COMMISSIONER OF INCOME TAX Respondent
Through: Mr N.P. Sahni, Senior Standing
Counsel with Mr Nitin Gulati, Advocate.

WITH

R-65H

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ITA 836/2007

ATMA RAM PROPERTIES P. LTD. Appellant
Through: Mr V.P. Gupta and Mr Anunav Kumar,
Advocates.

versus

COMMISSIONER OF INCOME TAX DELHI I Respondent
Through: Mr P. Roychaudhuri, Advocate for I.T.
Department

WITH

R-97

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ITA 355/2002

COMMISSIONER OF INCOME TAX DELHI Appellant



Through: Mr P. Roychaudhuri, Advocate for I.T.
Department.

versus

ATMA RAM PROPERTIES P. LTD. Respondent
Through: Mr V.P. Gupta and Mr Anunav Kumar,
Advocates.

CORAM:
HON'BLE DR. JUSTICE S. MURALIDHAR
HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER
04.09.2015

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1. These are ten appeals under Section 260 A of the Income Tax Act, 1961 ('Act') against the orders of the Income Tax Appellate Tribunal (ITAT). Eight of these are appeals by the Assessee and two are by the Revenue.

2. The Assessee's appeals being ITA No. 841/2007 (corresponding to ITA No. 1167/Del/2002 before the ITAT for the AY 1996-97), ITA No. 848/2007 (corresponding to ITA No. 271/Del/1999 before the ITAT for the AY 1995-96), ITA No.849/2007 (corresponding to ITA No. 1201/Del/2002 before the ITAT for the AY 1994-95), ITA No. 850/2007 (corresponding to ITA No. 2070/Del/2002 before the ITAT for the AY 1998-99), ITA No.

ITA Nos. 101/2002 etc.

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859/2007 (corresponding to ITA No. 1166 before the ITAT for the AY 1993-94), ITA No. 860/2007 (corresponding to ITA No. 2069/Del/2002 before the ITAT for the AY 1997-98), ITA No. 836/2007 (corresponding to ITA No. 2385/Del/2003 before the ITAT for the AY 1999-00) against the common order dated 5th January 2007 of the ITAT and ITA No. 162/2003 against the order of the ITAT dated 31st July 2002 in ITA No. 4416/Del/1996 for the AY 1992-93.

3. When the appeals were called out, Mr. V.P. Gupta, learned counsel for the Assessee, stated that he had instructions to withdraw the aforementioned appeals of the Assessee. Accordingly ITA Nos. 162/2003, 836/2007, 841/2007, 848/2007, 849/2007, 850/2007, 859/2007 and 860/2007, for Assessment Years ('AY') 1992-93 to 1999 to 2000 accordingly, dismissed as withdrawn.

3A. Mr. Gupta further submits that in view of the fact that the Assessee has accepted the orders of the ITAT for the above AYs and its appeals have been dismissed as withdrawn, the Assessee has no objection to the appeals of the Revenue being ITA Nos. 355/2002 and 101/2002 for AYs 1990-91



and 1991-92 respectively being allowed.

4. As far as the Revenue's aforementioned appeals are concerned, the questions of law framed by the Court in ITA 355/2002 against the order dated 31st May 2002 in ITA No. 2543/DEL/1995 relating to AY 1990-91 were:

(i) Whether the Income-tax Appellate Tribunal was correct in law in holding that the rental income received by the assessee from the tenants in occupation of the property known as Scindia House, Connaught Place, New Delhi is to be taxed under the head 'income from business' and not 'income from house property'?

(ii) Whether on the facts and in the circumstances of the case the learned ITAT was correct in law in holding that the income from sale of flat in Scindia House as 'income from business' instead of income taxable under the head 'capital gains'?

5. The question of law framed by the Court in ITA No. 101/2002 against the order dated 13th August 2001 of the ITAT in ITA No. 5769/Del/95 relating to AY 1991-92 was:

Whether the Income-tax Appellate Tribunal was correct in law in holding that the rental income received by the assessee from the



tenants in occupation of the property known as Scindia House, Connaught Place, New Delhi is to be taxed under the head 'income from business' and not 'income from house property'?

6. In view of the fact that the Assessee has accepted the decision of the Income Tax Appellate Tribunal for the AYs 1992-93 till 1999-2000 and has expressed no objection to the Revenue's appeals for AYs 1990-91 and 1991-92 being allowed, the above questions in the Revenue's aforementioned appeals are answered in the negative i.e. favour of the Revenue and against the Assessee. In other words, it is held that even for the said AYs 1990-91 and 1991-92, the rental income received by the Assessee from the tenants in occupation of the property known as Scindia House, Connaught Place, New Delhi shall be taxed as income from house property. Accordingly, the impugned orders dated 31st May 2002 of the ITAT in ITA No. 2543/DEL/1995 and 13th August 2001 in ITA No. 5769/Del/95 as regards the above issue are hereby set aside. The Revenue's appeals ITA Nos. 101 and 355 of 2002 are accordingly allowed.

S.MURALIDHAR, J

VIBHU BAKHRU, J

SEPTEMBER 04, 2015/mk

ITA Nos. 101/2002 etc.

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