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

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**ITA 30/2023 & CM Nos.2079-81/2023**

**SAVERA REALTY PRIVATE LIMITED** ..... Appellant

Through: Mr Vineet Malhotra, Ms Damini Chawla, Mr Vishal Gohri, Mr Pranjit Bhattacharya, Mr Atul Patni and Mr Manish Chaudhary, Advs.

versus

**ASSISTANT COMMISSIONER OF  
INCOME TAX, CIRCLE 22 2**

..... Respondent

Through: Mr Sunil Agarwal, Sr. Standing Counsel and Mr Tushar Gupta, Jr. Standing Counsel with Mr Utkarsh Tiwari, Adv.

**CORAM:**

**HON'BLE MR. JUSTICE RAJIV SHAKDHER**

**HON'BLE MS. JUSTICE TARA VITASTA GANJU**

**ORDER**

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**18.01.2023**

[Physical Hearing/Hybrid Hearing (as per request)]

**CM Nos.2080-81/2023**

1. Allowed, subject to the appellant filing legible copies of the annexures, at least three days before the next date of hearing.

**ITA 30/2023 & CM No.2079/2023** [*Application filed on behalf of the appellant seeking interim relief*]

2. According to learned counsel for the appellant, there are two errors in the impugned order dated 11.11.2021 passed by the Income Tax Appellate Tribunal [in short, "Tribunal"].

2.1 First, the immovable properties, which were the appellant/assessee's stock-in-trade, have been brought to tax under Section 22 of the Income Tax

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Act, 1961 [in short “Act”].

2.2 Second, taxable income has been calculated by taking the difference between the opening value and closing value of the stock-in-trade and applying the presumptive rate of 2% qua the difference.

3. According to us, the matter requires examination.

4. Admit.

5. The following questions of law are framed for consideration:

(i) Whether the Tribunal misdirected itself in law and on facts in applying Section 22 of the Act qua the immovable properties of the appellant/assessee?

(ii) Whether the Tribunal misdirected itself on facts and in law in sustaining the order of the CIT (Appeals), who, while ascertaining income under Section 22 of the Act applied a presumptive rate of 2% to the difference in the value of the opening stock and the closing stock of the subject properties?

6. The appellant/assessee’s counsel will place the record made available to the statutory authorities before this Court, *albeit*, in electronic form.

6.1 Copies of the same will be furnished to Mr Sunil Agarwal, who appears on behalf of the respondent/revenue.

7. List the matter on 21.09.2023.

8. In the meanwhile, the operation of the impugned orders dated 11.11.2021 and 14.09.2022 passed by the Tribunal shall remain stayed during the pendency of the appeal.

9. Accordingly, CM No.2079/2023 is disposed of.



10. Parties will act based on the digitally signed copy of the order.

**RAJIV SHAKDHER, J**

**TARA VITASTA GANJU, J**

**JANUARY 18, 2023**

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*Click here to check corrigendum, if any*

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