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

+ ITA 335/2024

PRINCIPAL COMMISSIONER OF INCOME TAX DELHI-20

.....Appellant

Through: Mr. Abhishek Maratha, Sr. SC
alongwith Mr. Parth Semiwal,
Mr. Apoorv Agarwal, Jr. SCs.
with Ms. Nupur Sharma, Mr.
Manav Goyal, Mr. Gaurav
Singh, Ms. Divya Verma and
Mr. Bhanukaran Singh Jodha,
Advs.

versus

**M/S. CA COOPERATIVE THRIFT AND CREDIT SOCIETY
LTD**

.....Respondent

Through: Mr. Deepanshu Jain, Mr.
Shantanu Jain, Mr. Manish
Yadav, Advs.

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+ ITA 336/2024

PRINCIPAL COMMISSIONER OF INCOME TAX-20

DELHI

.....Appellant

Through: Mr. Abhishek Maratha, Sr. SC
alongwith Mr. Parth Semiwal,
Mr. Apoorv Agarwal, Jr. SCs.
with Ms. Nupur Sharma, Mr.
Manav Goyal, Mr. Gaurav
Singh, Ms. Divya Verma and
Mr. Bhanukaran Singh Jodha,
Advs.

versus

CA COOPERATIVE THRIFT AND CREDIT SOCIETY LTD

.....Respondent

Through: Mr. Deepanshu Jain, Mr.
Shantanu Jain, Mr. Manish



Yadav, Advs.

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER
10.07.2024

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CM APPL. 38206/2024 in ITA 335/2024 & CM APPL. 38247/2024
in ITA 336/2024

Bearing in mind the disclosures made, the delay in refiling the appeals is condoned.

The applications shall stand disposed of.

ITA 335/2024 & ITA 336/2024

1. Notice. Since the respondents are duly represented, no further steps need be taken.
2. We take note of the preliminary objection which stands raised with learned counsel for the respondent submitting that the appeal would not be maintainable in light of low tax effect. We, however, take note of the exception which stands embodied in Para 3.1 (f) of the CBDT Circular 5/2024 dated 15 March 2024 and which speaks of situations where the tax prescriptions otherwise stipulated would not be applicable in cases where an appeal before the Tribunal was directed against an order passed under Section 263 of the Income Tax Act, 1961 [“Act”] by the Principal Commissioner. This since in those cases tax liability could not have been quantified. We consequently negative the preliminary objection and hold that the appeal would be maintainable.
3. Prima facie, we find merit in the appeals bearing in mind the provisions contained in Section 80P(2)(d) of the Act and which would



exempt only such part of the income earned by way of interest or dividends if it flowed from investments made in another cooperative society.

4. We, consequently, admit the instant appeals on the following questions of law: -

A. Whether the Income Tax Appellate Tribunal [“**Tribunal**”] is justified in the eyes of law in passing the impugned order, setting aside the order passed by the Commissioner of income Tax under Section 263 of the Act?

B. Whether the Tribunal is justified in the eyes of law in directing the Assessing Officer to all the claim of deduction made under Section 80P(2)(a)(i) of the Act?”

5. List again on 01.10.2024.

YASHWANT VARMA, J.

RAVINDER DUDEJA, J.

JULY 10, 2024/neha