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

\+ **ITA 344/2023**

THE COMMISSIONER OF INCOME TAX - INTERNATIONAL TAXATION -1 ..... Appellant

Through: Mr Ruchir Bhaita, Sr. Standing Counsel

versus

ESS DISTRIBUTION (MAURITIUS) S.N.C. ET. COMPAGNIE ..... Respondent

Through: None

CORAM:
HON'BLE MR. JUSTICE RAJIV SHAKDHER
HON'BLE MR. JUSTICE GIRISH KATHPALIA

O R D E R

% **06.07.2023**

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

CM No. 33607/2023

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

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2. Mr Ruchir Bhaita, learned senior standing counsel informs us that the connected appeal concerning the respondent/assessee i.e., ITA No. 336/2023 (AY 2012-13) is listed for hearing on 13.12.2023.

3. Mr Bhatia requests that the instant appeal be listed on the same date.

4. Accordingly, list the above-captioned appeal on 13.12.2023.

5. To be noted, the instant appeal concerns Assessment Year 2011-12.

6. We are also informed by Mr Bhatia, that the order dated 21.11.2022 passed by the Income Tax Appellate Tribunal in is also assailed in ITA No. 336/2023.

7. We may note, that the Tribunal has returned findings to the effect that the respondent neither has a PE in India, nor can it be held to be DAPE in terms of Article 5 of the treaty obtaining between India and Mauritius.

8. These are the aspects which will be examined on the next date of hearing.

RAJIV SHAKDHER, J

GIRISH KATHPALIA, J

JULY 6, 2023/as

Click here to check corrigendum, if any