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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ ITA 382/2024 & CM APPL. 41472/2024 (60 Days Delay in Refiling)

PR. COMMISSIONER OF INCOME TAX
(CENTRAL)-2Appellant

Through: Mr. Sanjay Kumar & Ms.
Easha, St. Counsels.

versus

M/S ELECTRICAL AND ELECTRONICS
INDIA LTD.Respondent

Through: None

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

% **ORDER**
24.07.2024

CM APPL. 41472/2024 (60 Days Delay in Refiling)

Bearing in mind the disclosures made, the delay of 60 days in refiling the appeal is condoned.

Application stands disposed of.

ITA 382/2024

1. Notice. Although the respondent is stated to have been placed on advance notice, none has appeared on its behalf when the matter was called.
2. Consequently, let learned counsel appearing for the appellant take steps for service upon the respondent through all permissible



modes including via approved courier service.

3. Prima facie and for the purposes of examining the challenge which stands raised, we take note of the facts that the target companies were facing suspension action pursuant to notices which had been issued. It is in the foresaid backdrop that Mr. Kumar, learned counsel for the appellant, contends that these companies would not fall within the ambit of Section 2(18)(b)(A) of the Income Tax Act, 1961 [“Act”] and be liable to be recognised as companies in which the public could be said to be substantially interested.

4. We, accordingly, admit the instant appeal on following two questions of law:

A. Whether on the facts and circumstances of the case, the Tribunal is correct in deleting the addition of INR 5,73,72,600/- under Section 56(2)(viiia) of the Act, despite the fact that the assessee company, which is not a “company in which the public are substantially interested” as per Section 2(18)(b)(A) of the Act, received the shares of other companies for a consideration below fair market value, should indeed be taxable as income from other sources when the aggregate differences between FMV and consideration exceed INR 50,000/-?

B. Whether on the facts and circumstances of the case, the Tribunal is correct in deleting the addition of INR 5,73,72,600/- under Section 56(2)(viiia) of the Act by ignoring the fact that the Section 56(2)(viiia) of the Act empowers to make addition if there is investment in shares below the FMV and the default in filing the details accurately?



5. Let the matter be called again on 04.11.2024.

YASHWANT VARMA, J.

RAVINDER DUDEJA, J.

JULY 24, 2024/kk