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

+ **ITA 405/2024**

INTERTEK INDIA PRIVATE LIMITEDAppellant

Through: **Mr. Nageswar Rao, Mr. Parth
& Mr. Aman Rewaria,**
Advocates

versus

**DEPUTY COMMISSIONER OF INCOME TAX
& ANR.**Respondents

Through: **Mr. Anurag Ojha, SSC with
Mr. Kumar Abhishek & Mr.
Subham Kumar, Advocates for
R-1**

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

ORDER
01.08.2024

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CM APPL. 43464/2024 (Exemption)

Allowed, subject to all just exceptions.

This application stands disposed of.

ITA 405/2024

1. Having heard Mr. Rao, learned counsel appearing for the appellant, we find that this appeal raises questions which would merit consideration.
2. We take note of the judgment handed down by the Special Bench of the Income Tax Appellate Tribunal in **Deputy Commissioner of Income Tax v. Total Oil India P. Ltd. [(2023) 104 ITR (Trib) 1]**, as also the fact of similar challenge pending in



number of writ petitions, including W.P. (C) 13962/2021.

3. We consequently admit this appeal on the following questions of law:-

A. Whether the Dividend Distribution Tax [“DDT”] prescribed under Section 115-O of the Income Tax Act, 1961 [“Act”] is in substance and effect a tax on dividend income of non-resident shareholders and where recipient shareholders are residents of United Kingdom the more beneficial rate of tax of 10 % under Article 11 of Double Taxation Avoidance Agreement [“DTAA”] between India – United Kingdom is applicable?

B. Whether decision of the Special Bench of the Tribunal in the case of Deputy Commissioner of Income Tax vs. Total Oil India Pvt. Ltd. lays down the correct law?

4. W.P. (C) 13962/2021 and connected matters shall stand tagged with the present appeal and the date fixed therein shall stand cancelled.

5. List on 11.09.2024.

YASHWANT VARMA, J.

RAVINDER DUDEJA, J.

AUGUST 1, 2024/RM