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

+ **ITA 729/2023 & CM APPL. 63671/2023**

**FABINDIA LIMITED (EARLIER KNOWN AS FABINDIA
OVERSEAS PRIVATE LIMITED)**

..... Appellant

Through: Mr Rajan Bhatia, Adv.

versus

PR. COMMISSIONER OF INCOME TAX-1

..... Respondent

Through: Mr Sanjay Kumar, Sr Standing
Counsel.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MR. JUSTICE GIRISH KATHPALIA

ORDER

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08.12.2023

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

1. This appeal concerns Assessment Year (AY) 2013-14.
2. *Via* the instant appeal, the appellant/assessee seeks to assail the order dated 31.07.2023 passed by the Income Tax Appellate Tribunal [in short, "Tribunal"].
3. In the appeal, the following questions of law are proposed by the appellant/assessee:

"(i) Whether the ITAT, in the year under appeal, on the issue of depreciation on "Trade Mark", erred in following its own order of remand for assessment year 2007-08 & erred in not directing allowance of the assessee's claim for depreciation in full even when the facts had changed & subsequent developments had led to crystallization of the cost of the "Trade Mark" at its purchase price of Rs. 5 crores.

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(ii) Whether the ITAT was correct in upholding the transfer pricing addition of Rs. 5,00,79,901/- relating to redemption of "deferred shares" held by the assessee in a foreign company M/ s East Limited & whether the finding of the ITAT that "deferred shares" & "ordinary shares" are similar and have same value is factually incorrect & perverse. Whether further in any case any income resulting would be only liable to tax as "Capital Gains" under section in 45 with consequential deductions permissible by law of cost of acquisition & set off of capital losses & whether the ITAT erred in holding otherwise.

(iii) Whether on interest free loan given by the assessee company to its subsidiary on which no interest was charged, any notional amount of Rs.93,62,454/- towards interest could at all be added to income as done by the AO, or whether alternatively any disallowance of interest paid could be made as observed/ suggested by the ITAT in its remand order. ”

4. For the moment, issue notice concerning proposed question nos.(i) and (iii).
5. Counsels for the parties will file written submissions, not exceeding three pages each, at least five days before the next date of hearing.
6. List the matter on 20.03.2024.
7. Meanwhile, Mr Rajan Bhatia, learned counsel, who appears on behalf of the appellant/assessee, will also place before the court the record which was made available to the statutory authorities.

RAJIV SHAKDHER, J

GIRISH KATHPALIA, J

DECEMBER 8, 2023/rk

[Click here to check corrigendum, if any](#)