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

+ **ITA 780/2023 & CM Nos.65855-56/2023**

M/S SAD BHAWNA TRUST

..... Appellant

Through: Mr Somil Agarwal and Mr Dushyant
Agrawal, Advs.

versus

ASSISTANT COMMISSIONER OF INCOME TAX

CENTRAL CIRCLE - 6

..... Respondent

Through: Mr Sunil Agarwal, Sr Standing
Counsel with Mr Shivansh B. Pandya,
Standing Counsel and Mr Utkarsh
Tiwari, Advs.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MR. JUSTICE GIRISH KATHPALIA

ORDER

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19.12.2023

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

CM No.65856/2023

1. Allowed, subject to the appellant filing legible copies of the annexures, at least three (3) days before the next date of hearing.

ITA 780/2023 & CM No.65855/2023 [Application filed on behalf of the appellant seeking interim relief]

2. This appeal concerns Assessment Year (AY) 2011-12.

3. Via the instant appeal, the appellant/assessee seeks to assail the order dated 27.09.2023 passed by the Income Tax Appellate Tribunal [in short, "the Tribunal"].

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4. We are informed by Mr Somil Agarwal, learned counsel, who appears on behalf of the appellant/assessee, that against the impugned order, another appeal, i.e., ITA No.770/2023 has been lodged by the appellant/assessee.

5. Mr Somil Agarwal says, that notice in the said appeal concerning the aforementioned AY, has been issued and the operation of the impugned order passed by the Tribunal has been stayed.

6. Mr Sunil Agarwal, learned senior standing counsel, who appeared on behalf of the respondent/revenue in ITA No. 770/2023, is present in court.

7. We may note that Mr Somil Agarwal, in anticipation that Mr Sunil Agarwal will be assigned the matter, served the case papers on him in the instant matter *via* e-mail on 18.12.2023.

8. We may also note that ITA No.770/2023 has been admitted. Learned counsel for the parties say that same questions of law arise in this appeal as well.

9. Accordingly, the instant appeal as well is admitted. The following questions of law are framed for consideration by this court:

(i) Whether the Tribunal misdirected itself on facts and in law in ignoring its order dated 19.12.2018 passed in the previous round?

(ii) Whether the impugned order passed by the Tribunal is perverse?

10. List the appeal in the usual course, according to age and seniority.

11. It has been brought to our notice that the impugned order has been stayed in ITA No. 770/2023, and the interlocutory application filed seeking interim relief, is listed for hearing on 22.03.2024.



12. Accordingly, issue notice in the above-captioned interlocutory application, i.e., CM No. 65855/2023.

13. Since Mr Sunil Agarwal appeared in ITA No.770/2023, we have requested him to accept notice in the above-captioned appeal and interlocutory application.

13.1 Mr Sunil Agarwal, learned senior standing counsel, accepts notice on behalf of the respondent/revenue.

14. A reply vis-à-vis the application will be filed within four (4) weeks.

14.1 Rejoinder thereto, if any, will be filed at least five (5) days before the next date of hearing.

15. List the application, i.e., CM No.65855/2023 on 22.03.2024.

16. As has been directed in the interlocutory application preferred in ITA No.770/2023, the same direction shall issue, for the moment, in the above-captioned application as well.

16.1 Thus, in the interregnum, the operation of the impugned order shall remain stayed.

17. Parties will act based on the digitally signed copy of the order.

RAJIV SHAKDHER, J

GIRISH KATHPALIA, J

DECEMBER 19, 2023

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