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

Date of decision: 18th September, 2026

Date of uploading: 21st September, 2026

\# **CNR No. DLHC010444922026**

\+ W.P.(C) 13739/2026, CM APPL. 64042/2026, CM APPL. 64043/2026

M/S RAJ SHEELA GROWTH FUND PVT LTD .....Petitioner

Through: Mr. N.P. Sahni, Ms. Ragini Handa & Mr. Sameer Chopra, Advs.

versus

INCOME TAX OFFICER WARD 21 (1) DELHI .....Respondent

Through: Mr. Ruchir Bhatia, SSC with Mr. Anant Mann, JSC & Mr. Pratyuksh Gupta, JSC.

CORAM:
HON'BLE MR. JUSTICE DINESH MEHTA
HON'BLE MR. JUSTICE RAJNEESH KUMAR GUPTA

J U D G M E N T

DINESH MEHTA, J. ***(ORAL)***

1. By way of the present writ petition, the petitioner has challenged the assessment order dated 28.12.2018 passed under Section 143(3) of the Income Tax Act, 1961 *(hereinafter referred to as 'the Act of 1961')*.

2. Mr. Anant Mann, learned Junior Standing Counsel for the respondent, at the outset, raised a preliminary objection that the writ petition impugns an assessment order which was passed way back on 28.12.2018, and that too when the petitioner has already availed statutory remedy of appeal. While

highlighting that such appeal is pending before Commissioner of Income Tax (Appeals) (CIT(A)) since 07.02.2019, he argued that in any event, the assessee cannot avail or pursue two remedies simultaneously.

3. At this point of time, Mr. N.P. Sahni, learned counsel submitted that the petitioner has approached this Court on the issue of jurisdiction, that too when this Court has already held in petitioner's favour that the respondent-Income Tax Officer, Ward 21(1), Delhi does not have jurisdiction to assess the petitioner.

4. He invited Court's attention towards the judgment dated 08.05.2024 delivered in ITA 124/2020 and W.P.(C) 3777/2022 (Annexure P-9) for Assessment Year 2016-17 passed in petitioner's own case and argued that when there is a direct judgment of this Court in petitioner's own case, the statutory remedy of appeal should not come in petitioner's way of invoking writ jurisdiction of this Court. Because, petitioner's constitutional rights so also statutory rights have been infringed by the arbitrary action of the respondent.

5. Having heard, learned counsel for the parties and considering that the petitioner has already availed statutory remedy of appeal, we are not inclined to exercise our discretionary jurisdiction under Article 226 of the Constitution of India.

6. However, considering that the petitioner's appeal is pending since February 2019 and as claimed by the petitioner, the issue on jurisdictional aspect has been set at rest by this Court, vide its judgment dated 08.05.2024, we request the CIT(A) to decide petitioner's appeal within a period of two months, in case the petitioner places a certified copy of the instant order before the Appellant Authority alongwith an early hearing application.

7. The petitioner shall be free to place a copy of the judgment dated 08.05.2024 passed by this Court before CIT(A) also, so that he can decide the appeal on the issue of jurisdiction as well as the other issues which the petitioner has canvassed before him.

8. With these observations, the writ petition stands disposed of.

9. All pending applications stand disposed of.

10. Needless to observe that we have not pronounced upon the merits or otherwise of the petitioner's contentions. The CIT(A) will be free to take an independent view of the petitioner's contentions in so far as the applicability of the judgment dated 08.05.2024 passed by this Court on the extant facts is concerned.

(DINESH MEHTA)
JUDGE

(RAJNEESH KUMAR GUPTA)
JUDGE

SEPTEMBER 18, 2026/*sid*