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

+ ITA 1275/2018

PRO COMMISSIONER OF INCOME

TAX - (CENTRAL) – 2

.....Appellant

Through: Mr. Debesh Panda, SSC with
Ms. Zehra Khan, Mr.
Vikramaditya Singh, JSCs, Mr.
Sri Aditya Kumar & Ms.
Yashika Gupta, Advs.

versus

M/S SAAMAG CONSTRUCTION PVT. LTD.Respondent

Through: Mr. Ajay Vohra, Sr. Adv. with
Mr. Aniket D. Agrawal and Mr.
Saksham Singhal, Advs.

40

+ ITA 179/2020

PR. COMMISSIONER OF INCOME TAX

(CENTRAL)- 2

.....Appellant

Through: Mr. Vipul Agrawal, SSC with
Ms. Sakshi Shairwal, JSC

versus

M/S SAAMAG CONSTRUCTION PVT. LTDRespondent

Through: Mr. Ajay Vohra, Sr. Adv. with
Mr. Aniket D. Agrawal and Mr.
Saksham Singhal, Advs.

41

+ ITA 1276/2018

PR. COMMISSIONER OF INCOME TAX

(CENTRAL) -2

.....Appellant

Through: Mr. Indruj Rai, SSC with Mr.
Sanjeev Menon, Mr. Rahul
Singh, JSCs, Mr. Anmol Jagga
& Mr. Gaurav Kumar, Advs.

versus

M/S. SAGA DEVELOPERS PVT. LTD

.....Respondent

Through: Mr. Ajay Vohra, Sr. Adv. with



Mr. Aniket D. Agrawal and Mr.
Saksham Singhal, Advs.

42

+ ITA 1285/2018

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

.....Appellant

Through: Mr. Sanjay Kumar, Ms. Monica
Benjamin & Ms. Easha Kadian,
JSCs.

versus

M/S PYRAMID REALTORS PVT. LTD.Respondent

Through: Mr. Ajay Vohra, Sr. Adv. with
Mr. Aniket D. Agrawal and Mr.
Saksham Singhal, Advs.

43

+ ITA 1286/2018

PR. COMMISSIONER OF INCOME TAX
(CENTRAL) -2

.....Appellant

Through: Mr. Debesh Panda, SSC with
Ms. Zehra Khan, Mr.
Vikramaditya Singh, JSCs, Mr.
Sri Aditya Kumar & Ms.
Yashika Gupta, Advs.

versus

M/S. SAAMAG DEVELOPERS PVT. LTD.Respondent

Through: Mr. Ajay Vohra, Sr. Adv. with
Mr. Aniket D. Agrawal and Mr.
Saksham Singhal, Advs.

44

+ ITA 1287/2018

PR. COMMISSIONER OF INCOME TAX
(CENTRAL) -2

.....Appellant

Through: Mr. Debesh Panda, SSC with
Ms. Zehra Khan, Mr.
Vikramaditya Singh, JSCs, Mr.
Sri Aditya Kumar & Ms.
Yashika Gupta, Advs.

versus

M/S. SAAMAG INFRASTRUCTURE LTD..Respondent



Through: Mr. Ajay Vohra, Sr. Adv. with
Mr. Aniket D. Agrawal and Mr.
Saksham Singhal, Advs.

45

+ ITA 180/2020

PR. COMMISSIONER OF INCOME TAX
(CENTRAL)- 2

.....Appellant

Through: Mr. Vipul Agrawal, SSC & Ms.
Sakshi Shairwalj JSC.

versus

M/S SAAMAG DEVELOPERS PVT. LTD.Respondent

Through: Mr. Ajay Vohra, Sr. Adv. with
Mr. Aniket D. Agrawal and Mr.
Saksham Singhal, Advs.

46

+ ITA 181/2020

PR. COMMISSIONER OF INCOME TAX
(CENTRAL)- 2

.....Appellant

Through: Mr. Vipul Agrawal, SSC with
Ms. Sakshi Shairwalj JSC.

versus

M/S SAAMAG INFRASTRUCTURE LTD.Respondent

Through: Mr. Ajay Vohra, Sr. Adv. with
Mr. Aniket D. Agrawal and Mr.
Saksham Singhal, Advs.

CORAM:

HON'BLE MR. JUSTICE YASHWANT VARMA

**HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR**

ORDER

13.02.2025

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1. We take note of the questions of law which are proposed for our consideration by the appellants:

“A. Whether in the facts and circumstances of the case, the Ld. ITAT was legally justified in admitting additional ground pertaining to absence of registration of shareholders agreement under section 17(1A) of the Registration Act, which was not raised before the lower authorities?”



B. Whether in the facts and circumstances of the case, the Ld. ITAT was legally justified in placing reliance on the decision of the Hon'ble Supreme Court in the case of CIT v. Balbir Singh Maini, (2017) 398 ITR 531 (SC), whereas the facts and circumstances in the present case are completely different, as full consideration has been received and possession has been transferred in the present case?

C. Whether in the facts and circumstances of the case Ld. ITAT was correct in holding that no eligible transfer had taken place by referring to section 2(47)(v) of Income Tax Act r.w.s. 53A of the Transfer of Property Act, 1882, without considering that the decision of Hon'ble Supreme Court in the case of CIT v Balbir Singh Maini (2017) 398 ITR 531 (SC), is distinguishable from the facts of the present case?

D. Whether on fact and circumstances of the case and in law, the Ld. ITAT was justified in following the decision of the Hon'ble Supreme Court in the case of CIT v. Balbir Singh Maini (2017) 398 ITR 531 (SC) to hold that the amount of Rs. 21,50,29,995/- received as consideration for transfer of Land Development Rights (including land), is taxable in the year in which the statutory authority i.e. GDA granted approval to the assessee and not in the year of its receipt?

E. Whether on facts and circumstances of the case, the Ld. ITAT was justified in holding that the consideration of Rs. 21,50,29,995/- received by the assessee had not accrued and therefore was not taxable in AY 2008-09?

F. Whether on facts and circumstances of the case, the Ld. ITAT has erred in law in deleting the addition of Rs. 95,17,992/- on account of interest earned on Fully Convertible Debentures?

G. Whether on facts and circumstances of the case, ITAT has erred in law in upholding the deletion of Rs. 27,15,597/- added on account of unexplained expenditure u/s 69C of the IT Act?

H. Whether on the facts and circumstances of the case, ITAT has erred in law in upholding the deletion of Rs. 7,59,73,060/- added on account of deemed dividend u/s 2(22)(e) of the IT Act?"

2. However, and on hearing Mr. Panda, Mr. Agrawal and Mr. Menon, learned counsels who appear for the appellants and Mr. Vohra, learned senior counsel, who appears for the respondents- assessee, we note that the questions posited at A to D essentially



emanate from a construction and clarification which is sought from the Court with reference to Section 2(47)(v) of the Income Tax Act, 1961 [“Act”] and whether the agreements which formed the subject matter of the appeal could be recognized to be enforceable in law.

3. Mr. Vohra, learned senior counsel, however, submits that the question of enforceability or attraction of Section 24(7)(v) of the Act is not disputed. The assessee’s essentially challenge the view taken by the appellants insofar as the year in which the income could be said to have accrued.

4. In view of the aforesaid, questions A to D as posited need not be answered in this appeal. They shall, consequently, be kept open to be addressed in an appropriate case.

5. We are thus left to examine questions E to H alone. In order to enable us to evaluate whether those questions give rise to a substantial issue in law, we accord liberty to learned counsels for respective sides to place a Brief Note of Submissions which would also encapsulate appropriate details with respect to the family of agreements which governed the rights and obligations of the assessee with other signatories.

6. The aforesaid note be placed on our record within a period of two weeks from today.

7. Let the appeals be called again on 06.03.2025.

YASHWANT VARMA, J.

HARISH VAIDYANATHAN SHANKAR, J.
FEBRUARY 13, 2025/v