- IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INTERIM APPLICATION NO.5526 OF 2025
IN
INCOME TAX APPEAL NO.1672 OF 2022

Pr.Commissioner of Income Tax, Central-1 Applicant
versus
Shoreline Hotels Pvt.Ltd. Respondent

AND
INTERIM APPLICATION NO.5678 OF 2025
IN
INCOME TAX APPEAL NO.1715 OF 2022

Pr.Commissioner of Income Tax, Central-1 Applicant
versus
Shoreline Hotels Pvt.Ltd. Respondent

AND
INTERIM APPLICATION NO.5679 OF 2025
IN
INCOME TAX APPEAL NO.1713 OF 2022

Pr.Commissioner of Income Tax, Central-1 Applicant
versus
Shoreline Hotels Pvt.Ltd. Respondent

AND
INTERIM APPLICATION (L) NO.29004 OF 2025
IN
INCOME TAX APPEAL NO.1673 OF 2022

Pr.Commissioner of Income Tax, Central-1 Applicant
versus
Shoreline Hotels Pvt.Ltd. Respondent

AND
INTERIM APPLICATION (L) NO.29006 OF 2025
IN
INCOME TAX APPEAL NO.1721 OF 2022

Pr.Commissioner of Income Tax, Central-1 Applicant
versus

Shoreline Hotels Pvt.Ltd. Respondent

AND
INTERIM APPLICATION (L) NO.29009 OF 2025
IN
INCOME TAX APPEAL NO.1677 OF 2022

Pr.Commissioner of Income Tax, Central-1 Applicant
versus
Shoreline Hotels Pvt.Ltd. Respondent

Mr.Suresh Kumar for Applicant.

Mr.Nitesh Joshi with Mr.Raghav Gupta, Treesa Benny & Rashi Savla i/by Wadia Ghandy & Co for Respondent.

CORAM: G. S. KULKARNI &
AARTI SATHE, JJ.

DATE: 7th November 2025

P.C.

1. We have heard Mr.Suresh Kumar, learned counsel for applicants-Revenue and Mr.Joshi, learned counsel for the Assessee on these applications. The prayers as made in these applications are similar, hence these Interim Applications are being disposed of by this common order.

2. The relief prayed for in the Interim Applications is for recall of the order dated 5th February 2025 passed on the aforesaid appeals whereby the Applicants-Revenue was permitted to withdraw the appeals considering the tax effect as involved and more particularly on the exceptions provided under the Circular No.5 of 2024 dated 15th March 2024.

3. At the outset we may observe that the said order of which a recall is prayed for was passed on a batch of appeals filed by the Revenue which appears to be almost 1,000 cases. The relevant extract of the order dated 5th February 2025 reads thus :

> "2. Orders in the above appeals will be passed separately.
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> 3. The learned counsel for the Appellants fairly accept that the tax effect in these Appeals is less than Rs.2 crores. Further, none of the exceptions referred to in the CBDT Circular No.05/2024 dated 15th March 2024 and Circular No.09/2024 dated 17th September 2024 apply. Accordingly, they crave leave to withdraw these Appeals.
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> 4. We grant leave as prayed for and dispose of these appeals as withdrawn. Interim Applications, if any, do not survive and are disposed of. However, the questions of law raised in these appeals are kept open since we have not adjudicated upon them.
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> 5. The Appellants will be entitled to the refund of court fees as per the rules.
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> 6. Although we have disposed of these appeals as withdrawn, at the request of the learned counsel for the Appellants, we record that should the Appellants find that the CBDT circulars did not cover any of these Appeals, they shall have the liberty to apply by filing appropriate applications. However, we expect such liberty to be exercised before 31st December 2025.
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> 7. All these appeals, apart from those mentioned in paragraph 1 of this order, are hereby disposed of."

4. The Revenue has filed these Interim Applications contending that in paragraph 3.1(c) of the CBDT Circular No.5 of 2024, dated 15th March 2024, an exception is carved out in relation to the category of cases where the assessment is passed based on information in respect of an offence alleged to have been committed under any other law as received from any of the law enforcement or intelligence agencies such as CBI, ED, DRI, SFIO, NIA, NCB, DGGI, state law enforcement agencies such as State Police, State Vigilance Bureau, State Anti Corruption Bureau, State Excise Department, State Sales/Commercial Taxes or

GST Department. It is therefore contended that present cases would fall under the said exception carved out under para 3.1.(c) of the said Circular.

5. On a perusal of the averments as made in the Interim Applications we do not find any specific averments/statement and/or any material placed on record on the basis of which it is contended that the case of the assessee in the present appeals, would in fact fall under para 3.1(c) of the said Circular. We have also perused the assessment order and orders passed by the Commissioner and Tribunal to verify whether the cases are based on the information of any offence alleged to have been committed by the assessee on report of any law enforcement agency or intelligence agency being received, so as to carve out any exception as stipulated in para 3.1(c) of the said Circular. It appears that there is no such case made out in the Assessment Orders or even in the orders passed by the subsequent authorities. Mr.Suresh Kumar would also not contend that there is any specific material that the cases would fall under such exception falling under Clause-3.1(c) of the said Circular. The only contention of Mr.Suresh Kumar is that these are cases wherein qua the assessment, additions on bogus accommodation entries, information was received from the DGIT (Inv.), which is one of the wings of Income Tax. The fact remains that the DGIT (Inv.) is not one of the authorities which are set out in Clause-3.1(c) of the said Circular so as to be at par with other authorities mentioned therein.

6. In this view of the matter, in our opinion, withdrawal of the appeals by the Revenue on the ground that they are covered by the Circular in regard to the tax effect being below Rs.2 crores, cannot be said to be not justified or contrary to

the said Circular.. For convenience we refer to the relevant clause 3.1(c) as contained in the Circular No.5/2024, dated 15th March 2024. Clause 3.1(c) thereof reads thus :

> "3.1 Monetary limits given in paragraph 4 with regard to filing appeal/SLP shall be applicable to all cases including those relating to TDS/TCS under the Act with the following exceptions where the decision to appeal/file SLP shall be taken on merits without regard to the tax effect and the monetary limits :
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> a. …… …
>
> b. …… …
>
> **c. Where the assessment is based on information in respect of any offence alleged to have been committed under any other law received from any of the law enforcement or intelligence agencies such as CBI, ED, DRI, SFIO, NIA, NCB, DGGI, state law enforcement agencies such as State Police, State Vigilance Bureau, State Anti Corruption Bureau, State Excise Department, State Sales/Commercial Taxes or GST Department, or**"
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> (emphasis supplied)

7. In this view of the matter, we are not inclined to grant a relief as prayed for in the Interim Applications. The Interim Applications are accordingly dismissed. No costs.

(AARTI SATHE, J.) **(G. S. KULKARNI, J.)**