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

\+ W.P.(C) 7304/2025

DYUTIT MITTAL (MINOR) THROUGH GRAND FATHER RAJINDER KUMAR MITTAL .....Petitioner

Through: Mr Naveen R. Nath, Senior Advocate with Ms Disha Gupta, Advocates.

versus

UNION OF INDIA & ANR. .....Respondents

Through: Mr Abhishek Saket, SPCG with Mr Abhigyan, Mr Manish Madhukar and Ms Aparna, Advocates.

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU
HON'BLE MR. JUSTICE TEJAS KARIA

O R D E R

% 29.05.2025

CM APPL. 32901/2025

1. Exemption is allowed, subject to all just exceptions.

2. The application stands disposed of.

W.P.(C) 7304/2025 and CM Nos. 32900/2025 and 32902/2025

3. The petitioner has filed the present petition, *inter alia*, praying that an individual for the purposes of the Income Tax Act, 1961 [**Act**] does not include a minor, who is an orphan and therefore, is not liable to pay income tax under the provisions of the Act.

4. The learned senior counsel appearing for the petitioner refers to Section 64 of the Act, where income of a minor other than what is earned by the minor through his own endeavors, is required to be clubbed with the guardians.

5. We are not persuaded to accept the said contention. The term ‘person’

is defined under Section 2(31) of the Act as under:

> "(31) "person" includes—
>
> (i) an individual,
>
> (ii) a Hindu undivided family,
>
> (iii) a company,
>
> (iv) a firm,
>
> (v) an association of persons or a body of individuals, whether incorporated or not,
>
> (vi) a local authority, and
>
> (vii) every artificial juridical person, not falling within any of the preceding sub-clauses.
>
> *Explanation*.—For the purposes of this clause, an association of persons or a body of individuals or a local authority or an artificial juridical person shall be deemed to be a person, whether or not such person or body or authority or juridical person was formed or established or incorporated with the object of deriving income, profits or gains;"

6. It is contended on behalf of the petitioner that a minor will not qualify as an individual. He submits that an individual, who necessarily have to be individual that is capable of entering into a contract. He also refers to Explanation (e) to Section 56(2)(vii) of the Act and submits that the plain reading of the said definition does not include a 'minor'. Clause (e) of the said Explanation to Section 56(2)(vii) of the Act is set out below:

> "(e) "relative" means, —
>
> (i) in case of an individual—
>
> (A) spouse of the individual;
>
> (B) brother or sister of the individual;
>
> (C) brother or sister of the spouse of the individual;
>
> (D) brother or sister of either of the parents of the

individual;

(E) any lineal ascendant or descendant of the individual;

(F) any lineal ascendant or descendant of the spouse of the individual;

(G) spouse of the person referred to in items (B) to (F); and

(ii) in case of a Hindu Undivided Family, any member thereof;"

7. We find nothing in this Explanation which would lead us to accept that the individual would not be a minor.

8. The learned senior counsel submits that since the Explanation of 'relative' also includes spouse of a person referred to in (B) to (F) of Clause (i), the same does not contemplate a minor. It would be a complete misreading of the definition. Clause (G) is read to control all the other sub-clauses of (i) of Explanation (e) to Section 56(2)(vii) of the Act. The contention advanced clearly unfounded and must be rejected.

9. The petitioner has also raised the issue regarding whether the income earned by the petitioner is taxable. We do not consider it apposite to examine that issue in these proceedings as that would be a subject matter of assessment by the concerned authorities.

10. The learned senior counsel also further submits that his arguments are applicable only to an orphaned minor and not to a minor *per se*. Thus, according to him, a minor would be an individual if his parents are alive, but if he is orphaned, he is ceased to be an individual.

11. This argument is frivolous, unfounded and must be rejected, at the

outset, for the said reason.

12. The petition is dismissed with the aforesaid observations. The pending applications are also disposed of.

VIBHU BAKHRU, J

TEJAS KARIA, J

MAY 29, 2025
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Click here to check corrigendum, if any