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

\+ **ITA 325/2025 & CM APPL. 51464/2025(Stay)**

ESCORTS KUBOTA LIMITED

.....Appellant

Through: Mr Simran Mehta, Advocate.

versus

ADDL. CIT SPECIAL RANGE 3

.....Respondent

Through: Mr. Puneet Rai, SSC, Mr. Ashvini Kr., Mr. Rishabh Nangia, Mr. Gibran, JSC.

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO
HON'BLE MR. JUSTICE VINOD KUMAR

O R D E R

% **01.09.2025**

1. The petitioner has filed this petition with the following prayers:-

> *"A. Setting aside the impugned order, dated 19th March, 2025, passed by the Income Tax Appellate Tribunal, Delhi Bench-B, New Delhi, in ITA No.7394/Del/2019(A.Y. 2016-2017), granting the Appellant's claim of Rs.47.64 Crores on account of commercial expediency.*
> *B. In the alternative, setting aside the impugned order, dated 19th March, 2025, passed by the Income Tax Appellate Tribunal, Delhi Bench-B, New Delhi, in ITA No. 7394/Del/2019(A.Y.2016-2017), remanding the matter back, for adjudication afresh, by the ITAT, on the merits."*

2. Though, the prayers A and B have been made in the alternative, Mr Simran Mehta, learned counsel for the petitioner press the prayer B to contend that Income Tax Appellate Tribunal (ITAT) was not correct in

remanding the matter to the Assessing Officer (AO). According to him, ITAT itself being the forum, which can consider and decide both the facts and law, should have adjudicated the issue which arose for its consideration in the appeal.

3. On 21.08.2025, we have passed the following order:-

> *"4. This appeal under Section 260A of the Income Tax Act, 1961 (the Act) has been filed by the Assessee challenging the impugned order dated 19.03.2025 passed by the Income Tax Appellate Tribunal (the Tribunal) in ITA No.7394/Del/2019 pertaining to Assessment Year 2016-17 whereby the matter has been remanded by the Tribunal to the Assessing Officer (AO).*
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> *5. The submission of Mr Simran Mehta, learned counsel for the Assessee is that there was no reason for the Tribunal to remand the matter to the AO as the Tribunal itself being the forum, which can dwell into the facts of the case and law should have decided the appeal on the basis of the records available, as per law. He also states that the Assessee does not intend to file additional documents and as such the matter be remanded back to the Tribunal for consideration of the appeal.*
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> *6. Issue notice. Mr Puneet Rai, learned Sr Standing Counsel for the Revenue accepts notice and seeks two days' time to take instructions.*
>
> *7. At his request, renotify on 25.08.2025."*

4. Today, Mr Puneet Rai, learned Sr Standing Counsel for the Revenue states that on the only prayer pressed by Mr Simran Mehta, he has oral instructions to convey that he has no objection on the matter being remanded to the ITAT.

5. If that being so, we set aside the impugned order dated 19.03.2025 and remand the matter to the ITAT which shall decide the appeal itself based on the record available before it as we have noted the submission made by Mr Mehta that he does not intend to file any additional documents. All the

contentions of the parties are left open to be advanced before the ITAT.

6. The appeal is allowed in the above manner. The pending application is also disposed of having become infructuous.

V. KAMESWAR RAO, J

VINOD KUMAR, J

SEPTEMBER 01, 2025

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