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

+ ITA 535/2024

PR. COMMISSIONER OF INCOME TAX -5,
MUMBAI

.....Appellant

Through: Mr Puneet Rai, senior standing
counsel with Mr Ashvini Kumar and
Mr Rishabh Nangia, Advocates.

versus

AIR INDIA SATS AIRPORT SERVICES
PVT. LTD.

.....Respondent

Through: Mr Parcy Pardiwalla, Senior
Advocate with Ms Ananya Kapoor,
Advocate.

AND

+ ITA 536/2024

PR. COMMISSIONER OF INCOME TAX -5,
MUMBAI

.....Appellant

Through: Mr Puneet Rai, senior standing
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Through: Mr Parcy Pardiwalla, Senior Advocate with Ms Ananya Kapoor, Advocate.

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

ORDER

01.05.2025

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1. After some arguments, the learned counsel appearing for the parties are *ad idem* that the issue regarding the applicability of the proviso to sub-section 4 of Section 80IA of the Income Tax Act, 1961 was not advanced and examined before the learned ITAT and therefore, the learned ITAT had no occasion to examine the same.
2. The learned counsel submits that the matter be remanded to the learned ITAT to consider afresh.
3. The parties are also *ad idem* that no objection would be taken by the respondent on the ground that the apposite grounds of appeal, which could possibly lead to the questions of law as projected by the Revenue in this appeal, were not raised before the learned ITAT.
4. In view of the above, we set aside the impugned order and remand the matter to the learned ITAT to consider afresh.
5. The above captioned appeals are disposed of in the aforesaid terms.
6. It is clarified that this order has been passed with the consent of the parties.

VIBHU BAKHRU, J

TEJAS KARIA, J

MAY 1, 2025

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