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

% *Date of Decision : 22.12.2025*

\+ **ITA 774/2025**

ADARSH JOURNAL PVT. LTD. .....Appellant

Through: Mr. S. K. Mukhi, Advocate.

versus

COMMISSIONER OF INCOME TAX WARD 1 (3) .....Respondent

Through: Mr. Indruj Singh Rai SSC Mr.Sanjeev Menon JSC, Mr. Rahul Singh JSC and Mr. Gaurav Kumar, Adv.

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

**V. KAMESWAR RAO , J. (ORAL)**

**CM APPL. 81071/2025(condonation)**

1. For the reasons stated in this application, the delay of 336 days in filing the appeal is condoned.

2. The application stands dismissed.

**CM APPL. 81070/2025(exemption)**

3. Exemption is allowed subject to all just exceptions.

4. The application stands dismissed.

**ITA 774/2025, CM APPL. 81072/2025**

5. This appeal under Section 260A of the Income Tax Act, 1961 (the Act) has been filed by the appellant/assessee challenging the order dated 28.06.2023 passed by the Income Tax Appellate Tribunal in ITA 8589/Del/2019 relatable to the Assessment Year (AY) 2016-17 whereby,

the Tribunal partially allowed the appeal filed by the appellant. The appellant had raised eight grounds, before the Tribunal which we summarise as below:

i. Grounds 1 and 2 are in respect of confirmation of the addition by CIT(A) in respect of difference in valuation of closing stock in the sum of Rs. 27,64,859/-

ii. Grounds 3 and 4 are in respect of confirmation of disallowance of Rs. 23,20,000/- made on account of rent.

iii. Ground 5 to 8 are in respect of brought forward losses; rejection of additional evidences filed by the appellant; chargeability of interest under Section 234B and 234C of the Act; and general in nature.

6. Suffice to say grounds 1 and 2 were accepted by the Tribunal in favour of the appellant.

7. This appeal is primarily related to grounds 3 and 4 raised by the appellant before the Tribunal and decided in the following manner:

> *"5. Ground Nos.3 and 4 raised by the assessee are challenging the confirmation of disallowance of Rs.23,20,000/- made on account of rent expenses.*
>
> *6. We have heard the rival submissions and perused the material available on record. The assessee had been operating the liquor trading business in the premises of 4,5,6, Omaxe Square, Jasola, New Delhi. The assessee submitted that it had taken another shop No.1, ground floor, Omaxe Square, Jasola, New Delhi on rent for shifting of its business premises. The assessee submitted that the shop No.1 is a corner shop and had the advantage of a better location being situated in the ground floor itself of the same mall. Further, the assessee had also planned to open an eatery/restaurant along with the sale of liquor which would, in the opinion of the assessee, increase the*

*volume of business of the assessee. The assessee had applied for shifting of the premises from the existing shop to the new premises on 03.09.2015. The assessee had entered into rent agreement in August 2015 for the said new premises and made payment of rent of Rs.23,20,000/- during the year under consideration. The Id. AO sought to disallow this rent payment on the ground that no business was carried on by the assessee from the said premises and that no sale of liquor had happened from the said premises during the year. The Id. AO also stated that the application form for shifting the retail vend of licence from existing premises to the new premises was made only on 26.07.2016 which falls in AY 2017-18. This disallowance made by the Id. AO was upheld by the Id. CIT(A).*

*7. Before us, the Id. AR submitted that the letter dated 03.09.2015 addressed by the assessee to the competent authority is to be treated as application made by the assessee for shifting of premises. The Id. AR submitted that the intention of the assessee to use the new premises for the purpose of its business is proved beyond doubt and, hence, the rent paid thereof would become an allowable deduction.*

*8. It is not in dispute that every liquor shop run by a person is under the direct control and supervision of the excise authorities and licence therefor is given for each shop. During the year under consideration, for carrying on the liquor business, licence has been issued only for the premises at 4,5,6, Omaxe Square, Jasola, New Delhi. The assessee, in order to have a bigger space with better locational advantage, sought to shift its premises to the ground floor in the same building. The assessee, vide letter dated 03.09.2015, enclosed at page 64 of the paper book, addressed to the Assistant Commissioner of Excise for shifting of L-10 licence to the new premises furnished the following documents thereof:-*

*a) Lease Deed;*
*b) Property papers; and*
*c) Mall map*

*9. Further, it is only on 26.07.2016, the assessee had preferred another letter to the Excise Department for shifting of L-10* *licence to the new premises wherein an application in the prescribed format was made by the assessee. The Excise Department took due cognizance of the same and granted licence to the assessee for the new premises in AY 2017-18. Hence, it goes to prove that the business in the new premises was actually carried on by the assessee only from AY 2017-18 onwards and, accordingly, the rent paid thereon for AY 2017-18 has been duly allowed as deduction by the Id. AO while completing the scrutiny assessment for AY 2017-18 vide order u/s 143(3) dated 03.12.2019. But as far as AY 2016-17, i.e., the year under consideration is concerned, the assessee had not made an application in the prescribed format before the Excise Authorities for shifting of the licence. Hence, the Id. AO was duly justified in holding that the new premises was never utilized by the assessee for the purpose of itsbusiness during the year under consideration. Accordingly, we confirm the action of the lower authorities in disallowing the rent of Rs.23,20,000/- paid for the new premises. Hence, ground Nos.3 and 4 raised by the assessee are dismissed."*

8. The conclusion drawn by the Tribunal is that the assessee in order to have a bigger space with better locational advantages sought to shift to its premises on the ground floor in the same building. It had on 03.09.2015 applied to Assistant Commissioner of Excise for shifting of L-10 License at the new premises.

9. It is also noted that on 26.07.2016, the assessee had preferred another letter for shifting of L-10 license to the new premises. The Excise department took cognisance of the same and granted license to the assessee for the new premises in the AY 2017-18. The Tribunal's conclusion was that the business in the new premises was actually carried by the assessee during the AY 2017-18 onwards and accordingly the rent paid during AY 2017-18 has been duly allowed as deduction by the AO while undertaking scrutiny assessment under Section 143(3) of the Act.

10. As far as 2016-17 is concerned it held that the assessee had not made any application in the prescribed format to the Excise authorities and hence the AO was justified in holding that the new premises was never utilised by the assessee for the purpose of business during the year under consideration.

11. The only submission made by the learned counsel for the appellant is that the Tribunal has erred in drawing such a conclusion as the appellant/assessee produced direct evidence in the form of the rent agreement and the application for shifting of the premises from the existing shop to the new premises to the Excise authorities on 03.09.2015, which are sufficient for the respondent, to give the benefit of deduction in the AY 2016-17.

12. We are not impressed by the said submission of the learned Counsel for the appellant as it is an undisputed fact that the permission by the Excise authorities was granted in the AY 2017-18 and without permission the appellant could not have shifted to the new premises as it entails issuance of the new license by Excise authorities. So it cannot be said that the assessee had utilised the new premises.

13. We do not see any merit in the appeal, the same is dismissed.

14. The pending application is also dismissed as having become infructuous.

**V. KAMESWAR RAO, J**

**VINOD KUMAR, J**

**DECEMBER 22, 2025/***rt*