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ORDER SHEET
ITAT/242/2025
IA NO: GA/1/2026, GA/2/2026
IN THE HIGH COURT AT CALCUTTA
SPECIAL JURISDICTION (INCOME TAX)
ORIGINAL SIDE

PRINCIPAL COMMISSIONER OF INCOME TAX 1 KOLKATA
VS
APEEJAY SURENDRA AMANAGEMENT SERVICES PVT LTD

BEFORE:
The Hon'ble JUSTICE RAJARSHI BHARADWAJ
AND
The Hon'ble JUSTICE UDAY KUMAR
Date: 21st April, 2026.

Appearance:
Mr. Amit Sharma, Adv.
Mr. Abhishek Kr. Agrahari, Adv.
. . .for the appellant.

Mr. Avra Mazumder, Adv.
Ms. Alisha Das, Adv.
Ms. Rupomita Ghosh, Adv.
. . .for the respondent.

The Court : Heard learned counsel appearing for the parties.

There is a delay of 477 days in filing the appeal. We are satisfied with the explanation offered for not preferring the appeal within time. Therefore, the delay is condoned. The application being GA/1/2026 is allowed.

This appeal filed by the revenue under Section 260A of the Income Tax Act, 1961 (the Act) is directed against the order dated 19th February, 2024 passed by the Income Tax Appellate Tribunal, 'B' Bench, Kolkata in ITA No. 988/Kol/2023, for the assessment year 2014-15.

The revenue has raised the following substantial questions of law for consideration :

"Whether the Learned Income Tax Appellate Tribunal was justified in law to hold that the addition on account of deemed dividend under Section 2(22)(e) of Income Tax Act, 1961, could only be made in the hands of the registered/beneficial shareholders, ignoring the fact that the Section 2(22)(e) does not contain any such specific provision or restriction and nowhere provides as to who is to be taxed in respect of such income ?"

We have heard learned Counsel appearing for the parties.

Learned Counsel for the respondent/assessee had submitted that the question of law raised in this appeal is squarely covered in favour of the assessee in the light of the decisions of the Hon'ble Supreme Court in Commissioner of Income Tax vs. Madhur Housing & Development Co., (2018) 93 taxmann.com 502(SC) as well as the decisions in (2012) 340 ITR 14 (Delhi) and (2020) 120 taxmann.com 125 (Madras). There is nothing brought on record by the revenue to point out any distinguishing feature for us not to follow the decisions of the Hon'ble Supreme Court and the decisions referred above.

Thus, following the decisions of the Hon'ble Supreme Court in (2018) 93 taxmann.com 502(SC), (2012) 340 ITR 14 (Delhi) and (2020) 120 taxmann.com 125 (Madras), (supra) the appeal is dismissed and the substantial question of law is answered against the revenue.

The stay application IA No: GA/2/2026 is also dismissed.

(RAJARSHI BHARADWAJ, J.)

(UDAY KUMAR, J.)

Sp/