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

\+ W.P.(C) 5851/2026, CM APPL. 28685/2026 & CM APPL. 28686/2026

DISH INFRA SERVICES PRIVATE LIMITED THROUGH ITS AUTHORIZED REPRESENTATIVE .....Petitioner

Through: Mr. S. Ganesh, Sr. Adv. with Mr. Vivek Sarin, Ms. Divyanshi Singh, Mr. Akash Gupta and MS. Nandita Singhal, Advs.

versus

NATIONAL FACELESS ASSESSMENT CENTRE AND ANR. .....Respondents

Through: Mr. Vipul Agrawal, SSC, Ms. Sakshi Shairwal and Mr. Akshat Singh, JSCs, Ms. Harshita Kotru and Mr. Gaoraang Ranjan, Advs.

CORAM:
HON'BLE MR. JUSTICE DINESH MEHTA
HON'BLE MR. JUSTICE VINOD KUMAR

O R D E R

% **20.05.2026**

1. On previous date of hearing i.e. 29.04.2026, this court had passed the following order:-

> *"1. Mr. S. Ganesh, learned Senior Counsel, invited Court's attention towards the relevant part of the assessment order dated 27.03.2026 and submitted that regardless of the petitioner's alternative plea, that if the Assessing Officer was not inclined to allowed depreciation on the amount of Consumer Premises Equipments (hereinafter referred to as 'CPEs'), then he should treat such amount*

as revenue expenditure, the assessing officer has disallowed the depreciation of Rs.772.16 crores and added the same in the petitioner's income.

2. He added that in spite of the fact that the AO himself has found them to be consumables, he did not treat them as revenue expenditure and made a huge addition, which is erroneous on the face of it.

3. We are conscious of our limited jurisdiction under Article 226 of the Constitution of India and are aware of the line of judgments, where it has been held that normally the High Court should not entertain a writ petition against an assessment order, but considering that the order is apparently erroneous and more particularly because the petitioner's alternative plea has not been considered, which has resulted in an addition of Rs.772.16 crores and a huge demand (petitioner's income has been assessed at Rs.772,15,63,014/- as against the returned loss of Rs.117,45,48,678/-), we feel that remedy of appeal will not be efficacious.

4. We are thus persuaded to entertain the present writ petition on this limited issue, subject to just objections to be raised by the respondents.

5. Mr. Vipul Agarwal, learned Senior Standing Counsel, prays for and is granted two weeks' time to complete instructions.

6. List this case on 20.05.2026.

7. Meanwhile, no coercive measure shall be taken to recover the amount (Rs.2,02,91,58,910/-) from the petitioner pursuant to the assessment order dated 27.03.2026. Penalty proceedings in furtherance of the impugned assessment order dated

27.03.2026 shall also remain stayed."

2. Mr. Vipul Agrawal, learned Senior Standing Counsel for the respondents, on instructions, submitted that if this Court is of the view that the petitioner's contentions and his alternative plea of giving a deduction of the entire expense which the AO has held to be consumable, have not been properly dealt with by the Assessing Officer (AO), then the matter may be remanded to the AO so that a reasoned and well considered order can be passed afresh.

3. In view of what we have reproduced above and upon going through the impugned assessment order dated 27.03.2026 passed under Section 143(3) read with Section 144B of the Income Tax Act, 1961 (*hereinafter referred to as 'the Act of 1961'*), we are of the view that the AO did not properly deal with the material on record and the factual and legal position. He appears to have been swayed by revenue consideration rather than doing objective adjudication.

4. We are of the view that the impugned assessment order dated 27.03.2026, whereby the petitioner's loss of Rs. 117,45,48,678/- has been converted to an income of Rs. 654,70,14,336/- by making an addition of Rs.772,15,63,014/-, has resulted in exponentially higher income in the hands of the petitioner. The same deserves to be set aside on non consideration of petitioner's alternative plea. The basic issue of not allowing depreciation too is a debatable, but we refrain from prejudging the issue.

5. Since the AO has recorded a finding that the goods are consumables, the AO was supposed to consider the petitioner's alternative plea of giving deduction of the amount spent as an expenditure.

6. The impugned assessment order dated 27.03.2026 is therefore, quashed and set aside. The AO to pass fresh order.

7. The AO shall fix a date of hearing in second week of June, 2026 by duly intimating the petitioner and giving him an opportunity.

8. The petitioner shall be given one or maximum three opportunities to put forth his case, whereafter the AO shall pass an order within thirty days from the date of hearing so fixed.

9. While doing so, the AO shall not, however, be precluded from accepting the petitioner's main plea, if he feels so persuaded.

10. The writ petition is allowed, as indicated above. All pending applications stand disposed of.

11. Needless to observe, that we have not recorded any finding on merit of the rival contentions the AO shall be free to take his independent view of the facts and submissions put forth by the assessee.

DINESH MEHTA, J

VINOD KUMAR, J

MAY 20, 2026/*cd*