$~94 & 102

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

\+ ITA 458/2026

\+ ITA 459/2026 CM APPL. 37336/2026

PRINCIPAL COMMISSIONER OF INCOME TAX DELHI-4
.....Appellant

Through: Mr. Abhishek Maratha, SSC with Mr. Apoorv Agarwai, JSC, Ms Nupur Sharma, Mr. Gaurav Singh, Advs.

versus

MICROSOFT INDIA (R AND D) PVT LTD .....Respondent

Through: Mr. Nageshwar Rao & Mr. Parth, Advs.

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

O R D E R

% **26.05.2026**

CM APPL. 37247/2026 in ITA 458/2026
CM APPL. 37258/2026 in ITA 459/2026

1. Instant applications have been filed under Section 151 of Code of Civil Procedure, 1908 seeking condonation of delay in re-filing the appeal.

2. For the reasons stated in the application, the delay of 1222 days in re-filing the appeal is condoned.

3. Applications stand disposed of.

ITA 458/2026 & ITA 459/2026 CM APPL. 37336/2026

4. Learned counsel for the respondent at the outset submitted that the

instant appeals involving identical issue have already been rejected by Coordinate Bench of this Court vide order dated 19.03.2024 passed in ITA 507/2022 and other connected appeals.

5. He submitted that except for the years under consideration, there is no substantial change so far as the issue involved is concerned.

6. Mr. Apoorv Agarwal, learned Junior Standing Counsel for the appellant was not in a position to dispute the aforesaid factual position.

7. Vide its order dated 19.03.2024, passed in the above referred ITA 507/2022 this Court had held thus:

> *"19. It is evident from the aforenoted clauses of the lease agreement that the underlying intention of the parties is to let out the premises alongwith the fixtures attached to it. As a natural corollary, the rent towards the leased premises includes the cost of the fixtures attached to the building. Therefore, applying the test propounded by the Hon'ble Supreme Court in the case of Sultan Brothers (supra), it is amply clear that the lease agreement in question is composite in character and the premises are let out alongwith the fixtures attached to it and is inseparable in nature.*
>
> *20. Once it is ascertained that the lease agreement in question is composite in nature, the income derived from such lease shall be calculated under the head of 'income from other sources' and not under the head of the 'income from house property'.*
>
> *21. We have noted that the ITAT in the impugned orders noted the dictum laid down by the Hon'ble Supreme Court in the case of Sultan Brothers (supra) and this Court in Jay Metals (supra). The ITAT further analysed the recitals of the lease agreement and ascertained the composite character of the lease agreement before reaching the conclusion that the rent received towards letting out the said premises shall be calculated under the head of 'income from other sources' and not under the ambit of 'income from house property'.*
>
> *22. Therefore, taking into consideration the aforenoted discussion and judicial precedents analysed above, the instant appeals raise*

no substantial questions of law which would merit our consideration. Therefore, we do not find any reason to interfere with the judgment rendered by the ITAT.

23. In view of the aforesaid, the instant appeals stand dismissed and are disposed of alongwith pending application(s), if any."

8. Having heard learned counsel for the parties and upon going through the above referred order of this Court, we are of the view that these appeals also lack merit and are liable to be rejected.

9. Accordingly, the appeals stand dismissed. All pending applications stand disposed of.

DINESH MEHTA, J

VINOD KUMAR, J

MAY 26, 2026/*sr*