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* **IN THEHIGH COURTOF DELHIAT NEW DELHI**

\+ ITA 318/2026

PRINCIPAL COMMISSIONER OF INCOME TAX (CENTRAL), KANPUR .....Appellant

Through: Mr. Siddhartha Sinha, SSC, Ms. Easha Gurung, JSC, Mr. NringChamwiboZeliang & Ms. Anu Priya Nisha Minz,Advs.

versus

M/S MONTAGE ENTERPRISES PVT. LTD. .....Respondent

Through:

CORAM:
HON'BLE MR. JUSTICE DINESH MEHTA
HON'BLE MS. JUSTICE MADHU JAIN

O R D E R

% 20.04.2026

CM APPL. 25441/2026 (for exemption)

1. Allowed subject to all just exceptions.

2. The application is disposed of.

CM APPL. 25442/2026 (for condonation of delay in re-filing)

3. Instant application has been filed under Section 151 of C.P.C.seeking condonation of delay of 380 days in re-filing the appeal.

4. For the reasons stated in the application, the delay of 380 days in re-filing the appeal is condoned.

5. Application stands disposed of.

ITA 318/2026& CM APPL. 25439/2026, CM APPL.25440/2026

6. Following substantial questions of law have been proposed for

consideration in the instant appeal:

> *"A) Whether on the facts and circumstances of the case and in law, the Ld. ITAT erred in deleting the additions made u/s 14A r.w.r. 8D of the Income Tax Act, 1961 by holding that recording a separate satisfaction is a mandatory condition for making disallowance u/s 14A of the Act relying on the judgment of the Hon'ble Delhi High Court in the case of* ***H.T.Media Ltd. v. Pr. CIT****, (2017) 399 ITR 576 despite the fact that the facts in the case law relied upon are different from the facts in the instant case and the judgment of the Hon'ble Supreme Court in the case of* ***Maxopp Investment Ltd. v.CIT****, (2018) 15 SCC 523, supports that the recording of satisfaction is mandatory only when there is a suo motu disallowance u/s 14A by the Assessee, which, however was not made by the assessee in the instant case?*
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> *B) Whether on the facts and circumstances of the case and in law, the Ld. ITAT erred in not recognizing the dissatisfaction mentioned by the Assessing Officer in the assessment order itself as satisfaction in the light of the provisions of the section 14A(2) of the Act and emphasizing recording of separate satisfaction as mandatory?*
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> *C) Whether on the facts and circumstances of the case and in law, the Ld. ITAT erred in confirming the order of the Ld. CIT(A) of deletion of the addition amounting to Rs. 2,05,00,000/- on account of unexplained cash seized from the premises of the Assessee during the search and seizure operation even though the Assessee failed to provide any explanation of the source of the seized cash and merely relying on a statement of cash transactions (cashbook) which did not contain any details which could confirm the source of the seized cash?*
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> *D) Whether on the facts and circumstances of the case and in law, the Ld. ITAT erred in not appreciating that the Ld. CIT(A) had erred in the facts and circumstances of the case and in law by directing to the treat the amount claimed as self CENVAT Credit Availment as a capital receipt which is not in line with the landmark judgment of the Hon'ble Supreme Court in the case of*

Sahney Steel & Press Works Ltd. v. CIT*, (1997) 7 SCC 764 : (1997) 228 ITR 253 (SC) wherein it was held that it was only when the Assessee had setup the industry and commenced production that various incentives were given revenue receipt and subsidy related to production could not be anything but revenue receipt?*

E) Whether on the facts and circumstances of the case and in law, the Ld. ITAT erred in confirming the order of the Ld. CIT(A) of directing to treat the amount claimed as self CENVAT Credit Availment as a capital receipt even though it was clearly mentioned in the assessment order that new industrial policy in the State of Jammu and Kashmir of the Central Excise clearly provides that excise duty refund is allowed for a period of 10 years from the date of commencement of commercial production and such incentives were not available to the Assessee unless the commercial production has commenced?

F) Whether on the facts and circumstances of the case and in law, the Ld. ITAT erred in not recognizing the facts of the instant case as distinct and directing to allow deduction u/s 80IB and 80IC of the Act on account of the other incomes which were not directly linked to the business of the Assessee and the Assessee failed to establish the same during the assessment proceedings?

G) Whether on the facts and circumstances of the case and in law, the Ld. ITAT erred in deleting the entire disallowance of Rs. 55,61,011/- u/s 14A r.w.r. 8D on the ground that no separate satisfaction was recorded by the Assessing Officer, despite clear discussion in the assessment order showing dissatisfaction about the Assessee' s claim of "no expenditure" and notwithstanding the principle laid down by the Hon'ble Supreme Court in **Maxopp Investment Ltd. v. CIT,** *(2018) 15 SCC 523, which requires satisfaction only where the assessee has made a suo motu disallowance?*

H) Whether on the facts and circumstances of the case and in law, the Ld. ITAT erred in holding that the disallowance computed u/s 14A cannot be added back to the book profit u/s 115JB, ignoring

Explanation 1(f) to Section 115JB and the judgment of this Court in ***CIT v. Goetze (India) Ltd.,*** *(2014) 361 ITR 505 (Del)?*

I) Whether on the facts and circumstances of the case and in law, the Ld. ITAT erred in affirming the Ld. CIT(A)'s finding that the Excise Duty Refund (Self-CENVAT Credit) of Rs. 71,65,295/- is a capital receipt and not includible in business income or book profit, even though such refund is linked to production and was consistently treated as revenue by the assessee in earlier years?

J) Whether on the facts and circumstances of the case and in law, the Ld. ITAT erred in upholding deduction u/s 801B and 80IC on scrap sales, exchange fluctuation, insurance claims, and sundry balances written back, despite these receipts not being "derived from" the eligible undertaking but merely incidental/ancillary, contrary to the ratio in ***Liberty India v. CIT,*** *(2009) 9 SCC 328?*

K) Whether on the facts and circumstances of the case and in law, the ITAT erred in upholding the deletion of the addition of Rs. 2,05,00,000/- made u/s 68 on account of cash seized during search, by relying solely on cash book entries without requiring corroborative evidence of the source of the cash, contrary to the settled law that the Assessee must satisfactorily explain the nature and source of cash credits?"

7. Heard learned counsel for the appellant.

8. The issue arising out of question Nos. (A) and (B), relating to disallowance under Section 14A, stands decided, as it is squarely covered against the Department in view of the decision rendered in the case of ***H.T. Media Ltd. v. Pr. CIT.*** reported in ***(2017) 399 ITR 576 (Del)***. Issue under Question Nos. (G) and (H), concerning the addition made under Section 115JB, is likewise covered by the aforesaid judgment.

9. Issue involved in Questions (D), (E) and (I), pertaining to the treatment of excise duty refund/subsidy, stand decided by the decision of the Hon'ble

the Supreme Court rendered in the case of ***CIT v. Shree Balaji Alloys*** reported in ***[2017] 80 Taxmann.com 239 (SC)*** and the issue is no longer *res integra*.

10. Questions (F) and (J), relating to deduction under Sections 80IB/80IC, are covered against the assessee by the decision in ***CIT v. Sadhu Forging Ltd***., reported in ***(2011) 336 ITR 444 (DEL)*** and hence, do not merit further consideration.

11. The only questions which have not been decided by this Court so far are, the Question Nos. (C) and (K). A first look at the Questions Nos. (C) and (K) shows that they pertain to appreciation of evidence and finding of facts. Hence, no interference is warranted.

12. In view of what we have observed hereinabove, no question of law remains to be answered.

13. The appeal is therefore dismissed. Pending applications stand disposed of.

DINESH MEHTA, J

MADHU JAIN, J

APRIL 20, 2026//*ys*