$~77

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

\+ ITA 1196/2007

ANZ GRINDLAYS BANK .....Appellant

Through: Mr. Shashi M. Kapila, Mr. Pravesh Sharma & Mr. Sushil Kumar, Advs.

versus

DEPUTY COMMISSIONER OF INCOME TAX SPECIAL RANGE 2 & ORS. .....Respondents

Through: Mr. Indruj Singh Rai, SSC with Mr..Sanjeev Menon & Mr. Rahul Singh, JSCs and Ms. Priya Sarkar & Mr. Gaurav Kumar, Advs.

CORAM:
HON'BLE MR. JUSTICE DINESH MEHTA
HON'BLE MR. JUSTICE AMIT MAHAJAN

O R D E R

% **07.05.2026**

CM APPL. 30518/2026 (early hearing)

1. An application seeking early hearing of the matter has been moved stating that the issue involved in the present appeal is squarely covered by the judgment of this Court in ITA 32/2004 titled as ***ANZ Grindlays Bank (now Standard Chartered Grindlays Bank Ltd.) v. Deputy Commissioner of Income Tax and Ors***. which has been affirmed by Hon'ble the Supreme Court in SLP(C) No.26733/2016.

2. Considering that the matter pertains to the year 2007 and the case is otherwise covered, we allow the application.

3. The matter is taken up for consideration today itself.

ITA 1196/2007

4. While admitting the appeal, vide order dated 25.02.2008 was passed by a Coordinate Bench of this Court, the following question was framed:-

> *"Whether the Income Tax Appellate Tribunal was right in law in holding that salaries paid to ex-patriate employees overseas on which tax was paid in accordance with Central board of Direct Taxes Circular No.685 dated 12.8.94, is not permissible as a deduction in computation of taxable business income in view of the provisions of Section 40(a)(iii) of the Income Tax Act, 1961 read with Article 7 of the Indo-UK Double Taxation Avoidance Treaty?"*

5. Learned counsel for the appellant submitted that the very same issue in appellant's own case has been decided by this Court vide its judgment dated 01.03.2016 passed in ITA 32/2004. The relevant paragraph of said judgment is reproduced hereunder:

> *"19. It is also relevant to note that sub-clause (i) of clause (a) of Section 40 was further substituted by sub-clauses (i), (ia) and (ib) by virtue of Finance Act (No.2) w.e.f. 1 st April, 2005. However, the precondition for depositing the tax within the time prescribed under Section (i) of Section 200 was retained in sub-clause (i) and (ia). Thereafter, by virtue of Finance Act (No.2), 2014, sub clause (i) was further amended and the principal condition of depositing tax in respect of payments made in India was amended and instead of the precondition of depositing the tax within the time prescribed under Section 200 (i) of the Act, it was now stipulated that the tax be deposited "on or before the due date specified in sub section (i) of Section 139"*

6. She further submitted that the department had preferred a Special

Leave Petition against such judgment but the same has been disposed of in light of the tax effect involved in the appeal.

7. Learned counsel for the respondent is not in a position to dispute that the very same issue stands decided by this Court vide judgment dated 01.03.2016, which has been affirmed by Hon'ble the Supreme Court as well.

8. Hence, the present appeal is allowed in light of the order dated 01.03.2016 passed in the appellant's own case. The question mentioned in paragraph no.5 above is answered in negative and in favour of the appellant-assessee. The impugned order dated 12.01.2007 passed by the Income Tax Appellate Tribunal, Bench "E", New Delhi is set aside to the extent of the question framed.

9. Consequence to follow.

10. The appeal is allowed accordingly

DINESH MEHTA, J

AMIT MAHAJAN, J

MAY 7, 2026
kk