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

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Date of Decision: 31.10.2023+ **ITA 598/2023****PR. COMMISSIONER OF INCOME TAX (CENTRAL)-2. Appellant****Through: Mr Sanjay Kumar, Sr Standing
Counsel with Ms Hemlata Rawat and
Ms Easha Kadian, Standing Counsel.****versus****ELECTRICAL AND ELECTRONICS INDIA LTD. Respondent****Through: Mr Salil Aggarwal, Sr Adv. with Mr
Mahir Aggarwal, Adv.****CORAM:****HON'BLE MR. JUSTICE RAJIV SHAKDHER****HON'BLE MR. JUSTICE GIRISH KATHPALIA****[Physical Hearing/Hybrid Hearing (as per request)]****RAJIV SHAKDHER, J.: (ORAL)****CM APPL 55771/2023**

1. Allowed, subject to just exceptions.

ITA 598/20232. This appeal concerns Assessment Year (AY) 2011-12. *Via* the instant appeal, the appellant/revenue seeks to assail the order dated 18.04.2023 passed by the Income Tax Appellate Tribunal [in short, "Tribunal"].

2.1. The Tribunal was called upon to examine the sustainability of the order dated 13.11.2017 passed by the Commissioner of Income Tax (Appeals) [in short, "CIT(A)"] concerning AYs 2010-11 to 2012-13.

3. On merits, the issue that was raised before the Tribunal was whether



the CIT(A) had erred on facts and in law in deleting the addition made under Section 69 of the Income Tax Act, 1961 [in short, “Act”], on account of unexplained investments made by the appellant/respondent in the JP Minda Group of companies.

3.1 To be noted, the aggregate amount invested was Rs.4,25,00,085/-. Significantly, the addition in the hands of respondent/assessee was made on a protective basis. The substantive addition had been made in the hands of the JP Minda Group.

4. It is not disputed that insofar as the JP Minda Group is concerned, a challenge was laid before a coordinate bench which was the subject matter of the judgment dated 26.09.2023, concerning a bunch of appeals; the lead appeal being ITA 358/2022, titled *Pr. Commissioner of Income Tax (Central)-2 vs. M/s JPM Tools Ltd.*

4.1 In particular, this judgment also covered ITA 360/2022, titled *Pr. Commissioner of Income Tax (Central)-2 vs. Jay FE Cylinder Ltd.*

5. The sum and substance of the judgment dated 26.09.2023 passed by a coordinate bench was that the substantive addition made in the hands of the JP Minda Group was dropped, *albeit*, on merits.

6. Mr Sanjay Kumar, learned senior standing counsel, who appears on behalf of the appellant/revenue, correctly points out that the addition was dropped on the basis of a judgment passed by a coordinate Bench of this court in *Commissioner of Income Tax vs. Kabul Chawla*, (2016) 380 ITR 573.

6.1 To be noted, the said judgment has been affirmed by the Supreme Court in *Principal Commissioner of Income Tax vs. Abhisar Buildwell*, 2023 SCC OnLine SC 481.



7. The Tribunal dismissed the appeal preferred by the appellant/revenue, having regard to the fact that the substantive addition on merits was dropped. As indicated above, the addition in the hands of the respondent/assessee was only made on a protective basis.

8. In these circumstances, we are of the view that no substantial question of law arises for consideration by this court. The appeal is, accordingly, closed.

**RAJIV SHAKDHER
JUDGE**

**GIRISH KATHPALIA
JUDGE**

**OCTOBER 31, 2023
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