Pradeep Wig — ITA Nos. 681/2025, 725/2025, 726/2025, 727/2025 and connected matters

$~2 to 15 * IN THE HIGH COURT OF DELHI AT NEW DELHI Decided on: 24th April, 2026 + ITA 681/2025 + ITA 725/2025 + ITA 726/2025 + ITA 727/2025 + ITA 697/2025 + ITA 698/2025 + ITA 700/2025 + ITA 701/2025 + ITA 702/2025 + ITA 703/2025 + ITA 708/2025 + ITA 709/2025 + ITA 710/2025 + ITA 712/2025 PR. COMMISSIONER OF INCOME TAX, CENTRAL-1, DELHI .....Appellant Through: Mr. Puneet Rai, SSC with Mr. Ashvini Kr. & Mr. Rishabh Nangia, JSCs & Mr. Nikhil Jain, Adv. versus PRADEEP WIG NEERA WIG .....Respondents Through: Mr. Sachit Jolly, Sr. Adv. with Ms. Shreya Jain, Mr. Gaurav Tanwar & Mr. Abhyudaya Shankar Bajpai, Mr. Sohum Dua, Advs CORAM: HON'BLE MR. JUSTICE DINESH MEHTA HON'BLE MR. JUSTICE VINOD KUMAR JUDGMENT Per DINESH MEHTA, J. (ORAL)

1. The captioned appeals have been filed by the Principal Commissioner of Income Tax, Central-1, against a common judgment and order dated Signature Not Verified Digitally Signed ITA 681/2025 & other connected matters Page 1 of 13 By:NAVEEN KUMAR Signing Date:28.04.2026 11:43:27 29.04.2025 passed by the Income Tax Appellate Tribunal, Delhi, Bench-„E■, New Delhi (hereinafter referred to as the „Tribunal■) with respect to 14 appeals decided by the Tribunal, which were filed by the respondents- assessees for Assessment Year 2011-12 to 2017-18.

3. Shorn of unwanted details, the facts relevant for the present purposes are that on 02.03.2017, a search was conducted at the residence of the respondents, who are husband and wife. During the course of search, the officers of the Department found certain papers containing details of expenditure incurred for upkeep, sale, purchase, renovation, maintenance furnishing and leasing of the house properties viz. Flat Nos. 53, 63 & 61 Eaton House, 39-40, Upper Grosvenor Street, London Wlk 2NG, owned by Carmichael Capital Limited (hereinafter referred to as „CCL■), a company incorporated in British Virgin Islands.

4. Since all the shares of said company (CCL) were held by the respondents and their daughters namely, Mr. Pradeep Wig, Mrs. Neera Wig, Ms. Sonu Wig, Mrs. Neela Kothari and Ms. Gauri Wig having 20% shareholding each in the said company, (CCL) the Assessing Officer added not only the income from house property amounting to Rs.1,08,12,485/- but also the income from capital gains arising out of sale of the property to the tune of Rs.5,91,25,912/-; the same was however rectified to Rs. 3,70,84,034/-. Signature Not Verified Digitally Signed ITA 681/2025 & other connected matters Page 2 of 13 By:NAVEEN KUMAR Signing Date:28.04.2026 11:43:27

5. While framing the assessment for different years, the Assessing Officer recorded that the entire investment in the said company (CCL) was made by the respondents, who are residents of India. Though he found that the payments were made from their declared sources and under permitted Liberalized Remittance Scheme (hereinafter referred to as „LRS■) of the Reserve Bank of India (hereinafter referred to as „RBI■) from time to time, he concluded that the respondents-assessees were the real beneficial owner of the company■s assets and thus liable to pay tax under the (hereinafter referred to as the „Act of 1961■).

6. The assessees■ stand was that earlier there were five shareholders in the company holding equal shares at 20% each, namely, Mr. Pradeep Wig and Mrs. Neera Wig, and their daughters, Ms. Sonu Wig, Mrs. Neela Kothari and Ms. Gauri Wig. So far as Ms. Sonu Wig is concerned, she was an NRI during relevant period prior to becoming a British citizen and did not have any income in India and thus was not obliged to file any return of income in India.

7. The AO invoked Explanation 4 to of the Act of 1961 and took into account the information received from the competent authorities of Singapore. He has taken a view that there is no difference in ownership of the company (CCL) and the ownership of properties of the company, having been proved by the data seized during the search. He further observed that the properties were owned by the assessees using the company-CCL only as a cover.

8. The assessees preferred an appeal before the Commissioner Income Tax (Appeals) (hereinafter referred to as the „CIT(A)■), challenging the basic issue of assessing the company■s income in their hands. Alternative grounds Signature Not Verified Digitally Signed ITA 681/2025 & other connected matters Page 3 of 13 By:NAVEEN KUMAR Signing Date:28.04.2026 11:43:27 with respect to calculation of capital gain and other grounds too were raised.

15. He argued that the AO has failed to understand the basic concept of corporate existence, that a company is a separate legal entity from its shareholders. He argued that company■s income can by no stretch of imagination be treated to be the income of its shareholders. He emphasised that so far as CCL is concerned, it had offered the rental income for tax and Signature Not Verified Digitally Signed ITA 681/2025 & other connected matters Page 5 of 13 By:NAVEEN KUMAR Signing Date:28.04.2026 11:43:27 had paid the applicable tax at each event, including any tax payable at the time of or after the sale of house property.

16. He argued that there is no provision under the Act of 1961 under which the rental income and income from capital gains earned by CCL can be taxed in the hands of the respondents-assessees, simply because they happened to be the shareholders of the company.

17. Heard learned counsel for the parties.

18. The way the transactions have been portrayed by the AO gives an impression as if, the respondents have adopted a ploy to avoid, if not evade, the tax under the Act of 1961. But if the factual matrix is examined in its entirety and from the lens of a common man or investor, it transpires that the respondents had invested in shares of the company namely CCL, registered under the provisions of law in the British Virgin Islands. The said company having obtained loan from the banks subsequently purchased properties and having earned rental income for three-four years, had sold the properties at a higher value. Hence, it is the company namely, CCL which earned rental income and generated gain for itself on account of appreciation in the value of the property it had purchased.

19. Since the company so also the properties are/were situate within the precincts of the United Kingdom, tax if any, is/was payable under the laws of the United Kingdom. The AO had taken it to be a device, essentially because the respondents happened to hold 100% shares of

the said company. Whereas the Tribunal examined the entire material and has given detailed reasons in paragraph 45 to 48 of its order, which we deem it apt to reproduce hereunder: > "45. It can be further seen that the entire information about the investment in the overseas companies holding of properties Signature Not Verified Digitally Signed ITA 681/2025 & other connected matters Page 6 of 13 By:NAVEEN KUMAR Signing Date:28.04.2026 11:43:27 by the overseas company in UK, purchased from its own capital received from the assessee and his family and bank loan borrowed from the HSBC Bank in UK and other relevant factors were well-known to the Revenue much before the date of search on 02/03/2017 as the statements of the Act of the assessee and his family members were recorded by the Investigation Unit besides even prosecution notice dated 27/10/2015 had been issued by the Revenue alleging non- disclosure of the same in the returns. 1 is decided in favour of appellants/assessee and all the grounds of appeal of the assessee in this regard are allowed and all the grounds of appeal of the Department in this regard are dismissed."

20. We note that right since the judgment in the case of McDowell & Co. Ltd. v. CTO, reported in (1985) 3 SCC 230; , reported in (2004) 10 SCC 1 upto ■cite■13†Vodafone International Holdings BV v. Union of India & Anr.■ , reported in (2012) 6 SCC 613, there has been a consistent view of Hon■ble the Supreme Court that the Revenue cannot tax a subject without a statute to support and that every tax payer is entitled to arrange his affairs so that his taxes are as low as possible and he cannot be compelled to choose that pattern which will replenish the treasury.

21. What is tax evasion, tax avoidance and when the corporate veil can be lifted has been elucidated by Hon■ble the Supreme Court in the case of (supra). Recapitulation of relevant paragraphs of said judgment shall not be out of context: > "79. When it comes to taxation of a holding structure, at the threshold, the burden is on the Revenue to allege and establish abuse, in the sense of tax avoidance in the creation and/or use of such structure(s). In the application of a judicial anti-avoidance rule, the Revenue may invoke the "substance over form" principle or "piercing the corporate veil" test only after it is able to establish on the basis of the facts and circumstances surrounding the transaction that the impugned transaction is a sham or tax avoidant. To give an example, if a structure is used for circular trading or round tripping or to pay bribes then such transactions, though having a legal form, should be discarded by applying the Signature Not Verified Digitally Signed ITA 681/2025 & other connected matters Page 9 of 13 By:NAVEEN KUMAR Signing Date:28.04.2026 11:43:27 test of fiscal nullity. Similarly, in a case where the Revenue finds that in a holding structure an entity which has no commercial/business substance has been interposed only to avoid tax then in such cases applying the test of fiscal nullity it would be open to the Revenue to discard such interpositioning of that entity. However, this has to be done at the threshold. > xxxx xxxx xxxx xxxx > 100. Be that as it may, did HTIL possess a legal right to appoint Directors onto the board of HEL and as such had some "property right" in HEL? If not, the question of such a right getting "extinguished" will not arise. A legal right is an enforceable right. Enforceable by a legal process. The question is what is the nature of the "control" that a parent company has over its subsidiary. It is not suggested that a parent company never has control over the subsidiary. From the date of incorporation mentioned in the certificate of incorporation, such subscribers to the memorandum and all other persons, as may, from time to time, become members of the company, shall be a body corporate by the name contained in the memorandum, capable of exercising all the functions of an incorporated company under this Act and having perpetual succession with power to acquire, hold and dispose of property, both movable and immovable, tangible and intangible, to contract and to sue and be sued, by the said name.

24. If the facts of the case are tested on above legal position, we find that the Tribunal has dealt with the facts, law and evidence in their correct perspective. We have gone through the findings of the Tribunal and have examined the facts ourselves. We are of the considered view that the respondents■ investment in purchase of shares of CCL cannot be said to be in violation of any of the provisions of law, including the Act of 1961, for following reasons: > (i) The company (CCL) is registered in British Virgin Islands and the properties were situate in the United Kingdom, tax if any, is payable under the laws of the United Kingdom. > (ii) The shares in the company were acquired by the respondents and the amount towards share capital was sent through proper banking Signature Not Verified Digitally Signed ITA 681/2025 & other connected matters Page 11 of 13 By:NAVEEN KUMAR Signing Date:28.04.2026 11:43:27 channels and remitted under the permitted Liberalised Remittance Scheme (LRS) of the RBI. > (iii) As the remittance were permitted under permitted LRS of the RBI, it can safely be presumed that there was a valid approval for acquiring shares in the company. > (iv) Apart from its own source, the company took loans from HSBC bank in the United Kingdom in order to purchase flats and thereby derive rental income. > (v) There is no gainsaying the fact that the applicable tax under the laws of the United Kingdom had been paid and there is no denial to such fact. > (vi) The documents which the AO had recovered during search relate to various expenditure carried out by the company, which the respondents-assessees even as shareholders can ask and have.

25. Legally speaking, the respondents being shareholders of the company, even if holding all the shares (100%), are only owners of the shares of the company and not the owners of the property as such and similarly the income which that company has earned cannot ipso-facto be treated to be an income of the assessees, who are residents of India. It is a different matter that as and when dividend is received by the respondents (in India or in the United Kingdom), such dividend may be exigible to tax. Hence, it is only the dividend income qua the shares of the company, which can be taxed and not the income of the company itself.

26. The AO■s endeavour to bring in doctrine of „substance over form■ is an attempt in anxiety of enriching the exchequer, which is not backed by the statutory framework - it is apparently unknown to the Act of 1961. The AO■s attempt to lift or pierce the corporate veil is simply misplaced if not misconceived, as it is not even a case of tax avoidance much less tax evasion. An assessee cannot be dissuaded, rather penalised for earning an income through legally permissible methods and sources and get optimum return on his investment. If that is to be done, the same can only be done by the legislature by enacting a valid law in this regard. But until then...., the matter has to rest.

28. The present appeals are thus, dismissed and consigned to record. DINESH MEHTA (JUDGE) VINOD KUMAR (JUDGE) APRIL 24, 2026/ck Signature Not Verified Digitally Signed ITA 681/2025 & other connected matters Page 13 of 13 By:NAVEEN KUMAR Signing Date:28.04.2026 11:43:27