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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ ITA 582/2007 & 912/2007

COMMISSIONER OF INCOME TAX Appellant
Through: Ms Prem Lata Bansal

Versus

ESCORTS AUTOMOTIVES LTD Respondent
Through: Mr R.M. MehtaCORAM
HON'BLE MR JUSTICE VIKRAMAJIT SEN
HON'BLE MR JUSTICE RAJIV SHAKDHERORDER
04.02.2009

In these appeals the Revenue has challenged a common order of the Tribunal dated 31.08.2006 in ITA Nos. 540 & 541/Del/2004 pertaining to assessment years 2000-01 and 2001-02.

We have heard the learned counsel for the Revenue Ms Prem Lata Bansal as well as learned counsel for the assessee Mr R.M. Mehta. After perusing the order we find that there is no infirmity in the impugned judgment of the Tribunal. The learned counsel for the Revenue Ms Bansal, even while accepting the fact, that the impugned judgment more or less protects the interest of the Revenue has expressed an apprehension that the disallowance under Section 14A of the Income Tax Act, 1961 (hereinafter referred to as the 'Act') which the Assessing Officer is required to ascertain will be quantified



keeping in mind only the dividend income arising from shares held as investment and not in respect of the dividend on shares which are part of stock-in-trade. Ms Bansal seeks a clarification with regard to the same. We are of the view that the apprehension is misconceived for the reason that while the dividend both on shares which form part of investment as well as those which are part of stock-in-trade is exempt under Section 10(33) of the Act, the exemption extends only to net amount earned by way of dividend. We have no doubt that Assessing officer while passing the order in terms of the directions issued by the Tribunal will keep this aspect of the matter in mind. Mr R.M. Mehta learned counsel for the assessee has also emphasized this aspect of the matter and as a matter of fact referred to the observations of the Tribunal to the same effect in paragraph 9 of the order appearing at page 45 of the paper book.

We find no substantial question of law arise for our consideration.

Resultantly, the appeals are dismissed.

VIKRAMAJIT SEN, J.

RAJIV SHAKDHER, J.

February 04, 2009

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