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

+ ITA 277/2009, ITA 460/2009 & ITA 949/2009

THE COMMISSIONER OF INCOME TAX V Appellant
Through: Ms. Rashmi Chopra, Adv.

versus

ORIENTAL BANK OF COMMERCE Respondent
Through: Mr. Rajat Novet, Adv.

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE R.V.EASWAR

ORDER

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02.12.2011

These appeals pertain to assessment year 2004-05, 2000-01 and 2002-03 and relate to Oriental Bank of Commerce, the respondent herein.

After hearing counsel for the parties, the following substantial questions of law are framed:-

“(1) Whether the Income Tax Appellate Tribunal was right in holding that Rule 8D of the Income Tax Rules, 1962 inserted by the Income Tax (5th Amendment) Rules, 2008 w.e.f. 24.3.2008 was procedural in nature and hence would apply retrospectively to all pending proceedings?

(2) Whether the Income Tax Appellate Tribunal was right in holding that no expenditure can be allocated towards earning of exempt income under Section 14A of the Income Tax Act, 1961?”



Learned counsel for the parties state that these two questions mentioned above are covered by the decision of this Court in the case of **Maxopp Investment Ltd. v. Commissioner of Income Tax** dated 18.11.2011 in ITA No.687/2009 and other connected matters. By the aforesaid decision it has been held that Rule 8D is not retrospective. Accordingly, the first question will be answered against the Revenue and in favour of the assessee. With regard to the second question, we pass an order of remit and ask the Assessing Officer to decide the said aspect afresh in terms of the ratio and directions given in **Maxopp Investment Ltd.'s case (supra)**.

The appeals are accordingly disposed of.

SANJIV KHANNA, J

R.V.EASWAR, J

DECEMBER 02, 2011

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(Handwritten notes in margin)