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§~28 & 30

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**+ **ITA 92/2019**

THE PR. COMMISSIONER OF INCOME TAX -3 Appellant

Through: Mr. Puneet Rai and Mr. Ruchir
Bhatia, Advocates

versus

FERN HEALTHCARE PVT.LTD. Respondent

Through: Mr. Mayank Nagi, Advocate

AND+ **ITA 132/2019**

THE PR. COMMISSIONER OF INCOME TAX -3 Appellant

Through: Mr. Puneet Rai and Mr. Ruchir
Bhatia, Advocates

versus

FERN HEALTHCARE PVT.LTD Respondent

Through: Mr. Mayank Nagi, Advocate

CORAM:**JUSTICE S.MURALIDHAR****JUSTICE TALWANT SINGH****ORDER**% **29.07.2019****CM APPL. 4495/2019 (Exemption) in ITA 92/2019**

1. Allowed, subject to all just exceptions.

ITA 92/2019 and ITA 132/20192. These are appeals by the Revenue against the common order dated 23rd August, 2018 in ITA No. 3682/DEL/2011 for the Assessment Year ('AY') 2009-10 and ITA No. 3108/DEL/2011 for the AY 2008-09 passed by the



(4)

Income Tax Appellate Tribunal (ITAT).

3. The common question urged in both the cases concerns the correctness of the order of the ITAT upholding the order of the CIT(A) which deleted the addition made by the Assessing Officer (AO) under Section 14 A read with Rule 8D(2)(ii) & (iii) of the Income Tax Rules.

4. As pointed out by the ITAT, the AO did not give any clear findings while he was invoking Rule 8D (2)(i) of the Income Tax Rules in the facts of the present case. It was further noted that the disallowance claimed by the Assessee exceeded the exempt income earned during the AYs in question.

5. The Court does not find any legal error in the impugned order of the ITAT which calls for interference. No substantial question of law arises for consideration. The appeals are accordingly dismissed.

A handwritten signature in black ink, appearing to be 'S. Muralidhar'.

S. MURALIDHAR, J.

A handwritten signature in black ink, appearing to be 'Talwant Singh'.

TALWANT SINGH, J.

JULY 29, 2019

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