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

+ **ITA 316/2023**

+ **ITA 317/2023**

PRINCIPAL COMMISSIONER OF INCOME  
TAX DELHI 4

..... Appellant

Through: Mr Abhishek Maratha, Sr. Standing  
Counsel with Mr Akshat Singh,  
Standing Counsel.

*versus*

IL AND FS ENERGY DEVELOPMENT  
CO LTD

..... Respondent

Through: None.

**CORAM:**

**HON'BLE MR. JUSTICE RAJIV SHAKDHER**

**HON'BLE MR. JUSTICE GIRISH KATHPALIA**

**ORDER**

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**30.05.2023**

[Physical Hearing/Hybrid Hearing (as per request)]

**CM Appl.29613/2023 in ITA 316/2023**

**CM Appl.29614/2023 in ITA 317/2023**

1. These are applications moved on behalf of the appellant/revenue seeking condonation of delay in re-filing the appeal.

1.1 According to the appellant/revenue, the period of delay involved is 285 days.

2. For the reasons given in the applications, the delay is condoned.

3. The applications are disposed of in the aforesaid terms.

*ITA 316/2023 & ITA 317/2023*

*1/3*



**ITA 316/2023**

**ITA 317/2023**

5. These appeals concern Assessment Year (AY) 2013-14 [ITA No.316/2023] and AY 2014-15 [ITA 317/2023].

6. Mr Abhishek Maratha, learned senior standing counsel, who appears on behalf of the appellant/revenue, says that the only question posed in the above appeals concerns deletion of disallowance made under Section 14A of the Income Tax Act, 1961 [in short, "Act"].

7. Insofar as ITA 316/2023 is concerned, the disallowance was quantified at Rs.12,50,66,466/-.

8. Likewise, insofar as ITA 317/2023 is concerned, the deletion of disallowance was pegged at Rs.8,41,21,936/-.

9. To be noted, the finding of fact returned is, that during the period in issue in the above-captioned appeals, the respondent/assessee had not earned any exempt income.

10. There is no dispute, that this issue is covered by a judgment of the coordinate bench of this Court dated 02.09.2015 passed in ITA 749/2014 titled *Cheminvest Limited v. Commissioner of Income Tax-VI* and the judgment passed in *Commissioner of Income-tax, Central 1, Chennai v. Chettinad Logistics (P.) Ltd.* [2017] 80 taxmann.com 221 (Madras).

11. To be noted, one of us i.e., Rajiv Shakhder, J., was part of the bench  
*ITA 316/2023 & ITA 317/2023*

2/3



in *Commissioner of Income-tax, Central 1, Chennai v. Chettinad Logistics (P.) Ltd.*

12. Mr Maratha does not dispute the fact, that a special leave petition (SLP) was preferred against the said judgment, which was dismissed by the Supreme Court *via* order dated 02.07.2018, which is reported as [2018] 95 taxmann.com 250 (SC).

12.1 The order of the Supreme Court reads as follows:

*“1. The Special Leave petition is dismissed on the ground of delay as well as on merits.”*

13. Therefore, according to us, no substantial question of law arises for our consideration.

14. These appeals are, accordingly, dismissed.

**RAJIV SHAKDHER, J**

**GIRISH KATHPALIA, J**

**MAY 30, 2023/pmc**

[Click here to check corrigendum, if any](#)

*ITA 316/2023 & ITA 317/2023*

*3/3*