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

+ **ITA 424/2023**

**PRINCIPAL COMMISSIONER OF INCOME TAX (CENTRAL)-3
NEW DELHI** Appellant

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

versus

M/S RSWM LTD Respondent

Through: None.

CORAM:

HON'BLE MR JUSTICE RAJIV SHAKDHER

HON'BLE MR JUSTICE ANISH DAYAL

ORDER

% **03.08.2023**

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

**CM No.39298/2023 [Application filed on behalf of the appellant seeking
condonation of delay of 4 days in filing the appeal]**

**CM No.39299/2023[Application filed on behalf of the appellant seeking
condonation of delay of 43 days in re-filing the appeal]**

1. These are applications filed by the appellant/revenue seeking condonation of delay in filing and re-filing the appeal.
2. According to the appellant/revenue, there is delay of four (4) days in filing and forty three (43) days in re-filing the appeal.
3. For the reasons given in the applications, the delay in filing and re-filing the appeal is condoned.
4. The applications are disposed of, in the aforesaid terms.

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5. This appeal concerns Assessment Year 2012-13.
6. *Via* this appeal the appellant/revenue seeks to assail the order dated 18.10.2022 passed by the Income Tax Appellate Tribunal [in short, “Tribunal”].
7. The short issue which arose for consideration before the Tribunal was whether disallowance under Section 14A of the Income Tax Act, 1961 [in short, “the Act”] could exceed the amount earned by the respondent/assessee by way of dividend, which was exempt under the Act.
8. The record shows that the respondent/assessee had received Rs.50,17,110/- as exempt income. The Assessing Officer (AO) directed disallowance of Rs.3,85,60,000/-.
9. The Commissioner of Income Tax (Appeal) [in short, CIT(A)] restricted the disallowance to the amount earned by the respondent/assessee by way of exempt income. The Tribunal has sustained this view.
10. Even according to Mr Abhishek Maratha, this issue is covered by the judgment of the coordinate bench rendered in *Joint Investments Pvt. Ltd. v. CIT*, [2015] 372 ITR 694 (Del.).
11. Accordingly, the appeal is disposed of as no substantial question of law arises for our consideration.
12. The Registry will dispatch a copy of the order passed today to the respondent/assessee, at the address given in the memo of parties and/or via email as well.



13. Parties will act based on the digitally signed copy of the order.

RAJIV SHAKDHER, J

ANISH DAYAL, J

AUGUST 3, 2023 / tr [Click here to check corrigendum, if any](#)

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