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

+ **ITA 499/2022**

PRINCIPAL COMMISSIONER OF INCOME TAX-04

.....Appellant

Through: Mr Puneet Rai, Sr. Standing Counsel  
with Ms Adeeba Mujahid, Adv.

*versus*

M/S IFCI LTD

.....Respondent

Through: Mr Abhishek Maratha, Sr. Standing  
Counsel.

**CORAM:**

**HON'BLE MR JUSTICE RAJIV SHAKDHER**

**HON'BLE MS JUSTICE TARA VITASTA GANJU**

**ORDER**

**02.12.2022**

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

**CM Appl.52149/2022**

1. Allowed, subject to just exceptions.

**CM Appl.52150/2022**

2. This is an application filed on behalf of the appellant seeking condonation of delay in re-filing the appeal.

2.1 According to the appellant/revenue, there is delay of 55 days.

3. For the reasons given in the application, the delay is condoned.

4. The application is disposed of in the aforesaid terms.

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5. *Via* this appeal, challenge is laid to the order dated 08.10.2020 passed by the Income Tax Appellate Tribunal [in short "Tribunal"].

6. The short issue which arises for consideration is: whether

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disallowance made by the assessing officer under Section 14A of the Income Tax Act, 1961 [in short “Act”] in relation to expenses said to have been incurred with regard to exempt income is sustainable.

7. The Tribunal has ruled against the revenue.

8. The record shows, that the respondent/assessee had earned dividend income in the relevant Assessment Year (AY) i.e., AY 2010-2011 amounting to Rs. 63,82,22,092/-.

9. Against the said exempt dividend income, *suo motu* disallowance of Rs. 10,00,000/- was offered by the respondent/assessee.

10. The assessing officer, however, has invoked Rule 8D of the Act and pegged the disallowance at Rs. 5,14,64,963/-.

10.1 The assessing officer thereafter proceeded to make an addition of Rs. 5,04,64,963/- *albeit* after adjusting Rs. 10,00,000/- offered by the respondent/assessee as disallowance.

11. The upshot of the Tribunal reasoning is, that in the absence of dissatisfaction recorded by the assessing officer on the claim made by the respondent/assessee against exempted income, the order of the assessing officer could not be sustained.

12. In reaching this conclusion, the Tribunal has *inter alia* taken recourse to its own decision rendered in ITA 2062/Del/2012 dated 31.08.2020 *qua* AY 2008-2009.

13. Connected with the aforesaid issue, is the impact that disallowance under Section 14A of the Act would have, in the computation of book profit under Section 115JB of the Act.

14. Issue notice to respondent/assessee *via* all modes, including e-mail.

15. List the matter on 06.04.2023.



16. In the meanwhile, counsel for the parties will file their written submissions, not exceeding three pages each, at least five days before the next date of hearing.

17. Mr Puneet Rai, who appears on behalf of the appellant will ascertain, as to what was the outcome of the order passed by the Tribunal in AY 2008-2009 and 2009-2010.

**RAJIV SHAKDHER, J**

**TARA VITASTA GANJU, J**

**DECEMBER 2, 2022 /r**

*Click here to check corrigendum, if any*