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

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Decision delivered on: 05.12.2022

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ITA 505/2022, CM Nos.52412/2022 & 52418/2022

PRINCIPAL COMMISSIONER OF
INCOME TAX, DELHI-4

..... Appellant

Through: Mr Ajit Sharma, Sr. Standing Counsel
with Mr A. Renganath, Adv.

versus

M/S MMTC LTD.

..... Respondent

Through: Mr Aniket D. Agrawal, Adv.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

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

RAJIV SHAKDHER, J. (ORAL):

**CM No.52418/2022 [Application filed on behalf of the appellant seeking
condonation of delay of 80 days in re-filing the appeal]**

1. This is an application filed on behalf of the appellant/revenue seeking
condonation of delay in re-filing the instant appeal.

1.1 According to the appellant/revenue, there is a delay of 80 days.

2. Mr Aniket D. Agrawal, who appears on behalf of the
respondent/assessee, says that he does not oppose the prayer made in the
application.

3. The prayer made in the application is allowed. The delay in re-filing
the appeal is condoned.

4. The application is, accordingly, disposed of.

CM No.52412/2022

5. Allowed, subject to the appellant filing legible copies of the annexures, at least three days before the next date of hearing.

ITA 505/2022

6. This appeal is directed against the order dated 29.09.2021 passed by the Income Tax Appellate Tribunal [hereafter referred to as “the Tribunal”]. The appeal concerns Assessment Year (AY) 2010-2011.

7. The short controversy which arose for consideration before the Tribunal was as to whether disallowance could be effected under Section 14A of the Income Tax Act, 1961 [in short, “Act”] if the respondent/assessee had not earned income which was exempt from imposition of tax.

7.1. The Tribunal has taken a view in favour of the respondent/assessee.

8. Mr Ajit Sharma, who appears on behalf of the appellant/revenue, has fairly placed before us a judgment dated 20.07.2022, rendered by a coordinate bench of this Court in ITA No.204/2022, titled ***Principal Commissioner of Income Tax (Central)-2 v. M/s Era Infrastructure (India) Ltd.***, which has ruled on the amendment which was brought about in Section 14A of the Act *via* Finance Act 2022.

8.1. The coordinate bench has ruled that the amendment will not operate retrospectively.

8.2. As far as the merits of the matter are concerned, it appears that the coordinate bench in the aforesaid judgment has referred to judgments passed by other coordinate benches rendered in ***PCIT v. IL & FS Energy Development Company Ltd.*** 2017 SCC OnLine Del 9893 and ***Cheminvest***

Limited v. Commissioner of Income Tax-VI (2015) 378 ITR 33.

8.3. Mr Sharma informs us that the decision rendered by the Division Bench of this court in ***PCIT v. IL & FS Energy Development Company Ltd.*** has been assailed by the appellant/revenue by instituting a special leave petition (SLP), which is pending adjudication.

9. Given these circumstances, since no substantial question of law arises in the present case, at this juncture, the appeal is, accordingly, disposed of.

9.1. Needless to state, if the appellant/revenue were to succeed in the SLP referred to hereinabove, parties will abide by the decision rendered by the Supreme Court in the said case.

10. The appeal is disposed of in the aforesaid terms.

RAJIV SHAKDHER, J

TUSHAR RAO GEDELA, J

DECEMBER 5, 2022

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