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

+ ITA 56/2024 & CM APPL 4269/2024

COMMISSIONER OF INCOME TAX (TDS)-2

..... Appellant

Through: Mr. Vipul Agrawal, Sr.
Standing Counsel with Mr.
Gibran and Ms. Sakshi, Advs.

versus

M/S TV TODAY NETWORK LTD. Respondent

Through: Mr. Salil Aggarwal, Sr. Adv.
with Mr. Madhur Aggarwal,
Adv.

CORAM:

HON'BLE MR. JUSTICE YASHWANT VARMA

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR

KAURAV

ORDER

23.01.2024

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CM APPL 4269/2024

Bearing in mind the disclosures made, the delay of 25 days in re-filing the appeal is condoned.

The application shall stand disposed of.

ITA 56/2024

1. Notice. Since the respondent is duly represented, let a reply, if so chosen and advised, be filed on this appeal within a period of three weeks from today.

2. Having heard learned counsels for parties, we note that the issue emanates from a suo moto disallowance of expenditure in the relevant year. The Income Tax Appellate Tribunal ["ITAT"] has in paragraph 10 of the impugned order taken note of the fact that the expenditure



was duly accounted for in the subsequent year and tax was deducted at source at that stage.

3. Mr. Aggarwal, learned counsel appearing in support of the appeal, however, would draw our attention to the deeming fiction contained in Section 194C, 194H and 194I of the Income Tax Act, 1961 [“Act”] to submit that the moment a sum is credited to any account, such crediting is in terms of the provisions made, deemed to have been credited in the account of the payee and the obligation to deduct tax arising consequent thereto. Matter requires consideration.

4. We accordingly admit this appeal on the following question of law:-

A. Whether on the facts and in the circumstances of the case and in law, the ITAT was justified in deleting the penalty levied under Section 271C wherein disallowance of provision of liability of expenditure does not absolve the tax deductor of his statutory duty to deduct TDS under the Act?

5. Let the matter be called again on 01.03.2024.

YASHWANT VARMA, J.

PURUSHAINDRA KUMAR KAURAV, J.

JANUARY 23, 2024

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