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

+ ITA 572/2024

PR. COMMISSIONER OF INCOME TAX, DELHI – 1.....Appellant

Through: Mr. Vipul Agrawal, Sr. Standing
Counsel.

versus

M/S DELHI TOURISM AND TRANSPORTATION
DEVELOPMENT CORPORATION LTD.Respondent

Through:

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

ORDER

% **13.12.2024**

CM APPL. 73381/2024 (Condonation of delay)

1. For the reasons stated in the application, the delay in filing the appeal allowed.
2. Application is disposed of.

CM APPL. 73382 /2024 (Condonation of delay in refiling)

3. For the reasons stated in the application, the delay in re-filing the appeal allowed.
4. Application is disposed of.

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5. The revenue has filed the appeal under Section 260A of the Income Tax Act, 1961 (hereafter *the Act*) impugning an order dated 14.08.2023 passed by Income Tax Appellate Tribunal (hereafter *the ITAT*) in ITA



No.5509/DEL/2019 and 5920/2019 in respect of the Assessment Year 2011-12.

6. The revenue has projected the following questions of law for consideration of this Court:-

“A. Whether on facts & circumstances of the case and applicable law, the Ld. ITAT and Ld. CIT(A) has erred in deleting the addition made by the AO on account of disallowance of advanced excise deposit u/s 43B on Liquor Trade of ₹.8,81,97,237/-?”

B. Whether on facts and circumstances of the case and applicable law, the ld. ITAT has erred in deleting the addition made by the AO on account of disallowance on account of prior period expenses claimed of ₹.13,05,668/- made by the AO?

C. Whether on facts and circumstances of the case and applicable law, the ld. ITAT has erred in directing the AO to allow the disallowance of proportionate business expenses to the rental receipts/income at Dilli Haat INA of ₹.1,28,90,063/- made by the AO?

D. Whether on facts and circumstances of the case and applicable law, the ld. ITAT has erred in deleting the disallowance of ₹.26,46,058/- made by the AO on account of not furnished /expenses not supported by the documentary evidences?

E. Whether on facts and circumstances of the case and applicable law, the ld. ITAT has erred in deleting the disallowance claimed by the assessee u/s 80IA of the Act?

F. Whether on facts & circumstances of the case and applicable law, order, impugned orders passed by Hon'ble ITAT are perverse?”

7. Insofar as the first question [A] is concerned, concededly the same is covered by the earlier decision of this Court including an order dated 09.07.14 passed in ITA No.267/2014: **Commissioner of Income Tax Vs. Delhi Tourism and Transportation**. The said order was passed *inter-alia*, following the decision of this Court in **CIT vs. Modicon Ltd.: 334 ITR 106**.



The Appeal preferred against the said decision was rejected by the Supreme Court by an order dated 24.11.2017 rendered in **Civil Appeal No.19763/2017** captioned ***Commissioner of Income Tax II vs. M/s. Modicon Ltd.***

8. In view of above, the said question cannot be considered as a substantial question of law.

9. Insofar as the 5th question [E] is concerned, the same is also covered in favour of the Assessee by earlier decision of this Court in ***Sh. Bhavani Power Projects Pvt. Ltd. vs. Income Tax Officer, Ward 23(3) and Anr.:*** **2024 SCC OnLine Del. 5626.**

10. Issue notice confined to the remaining three questions, returnable on 26.03.2025.

VIBHU BAKHRU, ACJ

TUSHAR RAO GEDELA, J

DECEMBER 13, 2024

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Click here to check corrigendum, if any