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

% *Date of decision:28.07.2023*

+ **ITAs 409/2023, 410/2023, 411/2023 & 412/2023**

PRINCIPAL COMMISSIONER OF INCOME TAX (CENTRAL)-3

..... Appellant

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

versus

BHILWARA ENERGY LTD

..... Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MR. JUSTICE GIRISH KATHPALIA

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

RAJIV SHAKDHER, J.: (ORAL)

CM APPL. 38119/2023 in ITA 409/2023

CM APPL. 38122/2023 in ITA 410/2023

CM APPL. 38125/2023 in ITA 411/2023

CM APPL. 38128/2023 in ITA 412/2023

1. Allowed, subject to just exceptions.

CM APPL. 38117/2023 in ITA 409/2023

CM APPL. 38120/2023 in ITA 410/2023

CM APPL. 38123/2023 in ITA 411/2023

CM APPL. 38126/2023 in ITA 412/2023 *[Application filed on behalf of*

the appellant/revenue seeking condonation of delay of 11 days in filing



ITAs 409/2023 & 411/2023 and 02 days in filing ITAs 410/2023 & 412/2023]

2. These are the applications moved on behalf of the appellant/revenue seeking condonation of delay in filing the appeal.

2.1 According to the appellant/revenue, there is a delay of 2 days in filing ITAs 410/2023 & 412/2023, while in ITAs 409/2023 & 411/2023, there is a delay of 11 days.

3. For the reasons, mentioned in the applications, the delay is condoned.

4. The applications are disposed of, in the aforesaid terms.

CM APPL. 38118/2023 in ITA 409/2023

CM APPL. 38121/2023 in ITA 410/2023

CM APPL. 38124/2023 in ITA 411/2023

CM APPL. 38127/2023 in ITA 412/2023 [*Applications filed on behalf of the appellant/revenue seeking condonation of delay of 118 days in re-filing]*

5. These are the applications moved on behalf of the appellant/revenue seeking condonation of delay in re-filing the appeal.

5.1 According to the appellant/revenue, there is a delay of 118 days.

6. For the reasons given in the applications, the delay is condoned.

7. The applications are disposed of, in the aforesaid terms.

ITAs 409/2023, 410/2023, 411/2023 & 412/2023

8. These appeals concern Assessment Years (AYs) 2014-15 (ITA 409/2023), 2015-16 (ITA 410/2023), 2017-18 (ITA 411/2023) and 2016-17 (ITA 412/2023).

9. *Via* these appeals, the appellant/revenue seeks to assail the common order of the Income Tax Appellate Tribunal [in short, “Tribunal”] dated



02.08.2022.

10. Mr Abhishek Maratha, senior standing counsel, who appears on behalf of the appellant/revenue, submits that the issue that arises for consideration is whether the Tribunal was right in sustaining the deletion of disallowance under Section 14A of the Income Tax Act, 1961 [in short, “Act”] in view of the fact that no income exempt from tax had been earned during the relevant period.

11. According to us, the issue is covered by the following decisions:

(i) Judgement dated 02.09.2015 passed in ITA 749/2014, titled ***Cheminvest Limited v. Commissioner of Income Tax-VI.***

(ii) ***Commissioner of Income-tax, Central 1, Chennai v. Chettinad Logistics (P.) Ltd.*** [2017] 80 taxmann.com 221 (Madras).

(iii) Order dated 30.05.2023 passed in ITA Nos. 316/2023 and 317/2023, titled ***Principal Commissioner of Income Tax Delhi 4 v. IL And FS Energy Development Co Ltd.***

12. Insofar as ***Chettinad Logistics (P.) Ltd.*** is concerned, one of us [i.e., Rajiv Shakhder, J.] was a member of the Bench.

12.1 Mr Maratha does not dispute that a Special Leave Petition (SLP) was preferred against the said judgment, which was dismissed *via* order dated 02.07.2018; which is reported in [2018] 95 taxmann.com 250 (SC). The order passed by Supreme Court reads as follows:

“1. *The Special Leave petition is dismissed on the ground of delay as well as on merits.*”

13. Therefore, according to us, no substantial question of law arises for our consideration in the above-captioned appeals.



14. The appeals are, accordingly, dismissed.

(RAJIV SHAKDHER)
JUDGE

(GIRISH KATHPALIA)
JUDGE

JULY 28, 2023

v