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

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Date of decision: 03.05.2023

+ **ITA 250/2023**

PRINCIPAL COMMISSIONER OF INCOME TAX - 4 DELHI

..... Appellant

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

versus

M/S MODERN INFO TECHNOLOGY PVT LTD..... Respondent

Through: Mr M.P. Rastogi with Mr Manu K.
Giri, Advocates.

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 No.22364/2023

CM No.22365/2023

1. These are applications filed on behalf of the applicant/appellant/revenue seeking condonation of delay in filing and re-filing the appeal.

1.1 According to the applicant/appellant/revenue, there is a delay of 105 days in filing and 125 days in re-filing the appeal.

2. Mr M.P. Rastogi, Advocate who appears on behalf of the respondent/assessee, says that he does not oppose the prayers made in the



applications.

3. Accordingly, the prayers made therein are allowed.

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

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5. This appeal concerns Assessment Year (AY) 2014-2015.

6. The appellant/revenue seeks to assail the order dated 27.09.2021 passed by the Income Tax Appellate Tribunal [in short, "Tribunal"]. The only grievance of the appellant/revenue concerns the deletion of disallowance sustained by the Tribunal. The amount involved is Rs.3,12,87,693/-. According to the Tribunal, the respondent/assessee has not made any claim *qua* exempt income, and therefore, disallowance under Section 14A of the Act was not sustainable.

7. There is no dispute, that this issue is covered by a judgment of the coordinate bench of this Court dated 02.09.2015 passed in ITA 749/2014 titled *Cheminvest Limited v. Commissioner of Income Tax-VI* and the judgment passed in *Commissioner of Income-tax, Central 1, Chennai v. Chettinad Logistics (P.) Ltd.* [2017] 80 taxmann.com 221 (Madras).

8. To be noted, one of us i.e., Rajiv Shakhder, J., was part of the bench in *Commissioner of Income-tax, Central 1, Chennai v. Chettinad Logistics (P.) Ltd.*

9. Counsel for the appellant/revenue does not dispute the fact that special leave petition preferred against the said judgment was dismissed by the Supreme Court *via* order dated 02.07.2018 which is reported as [2018] 95 taxmann.com 250 (SC).

9.1 The order of the Supreme Court reads as follows:



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

10. In these circumstances, no substantial question of law arises for our consideration.

11. It is, however, brought to our notice by counsel for the appellant/revenue that against other judgments, special leave petitions have been filed, which are pending adjudication by the Supreme Court. This fact is placed on record.

12. The appeal is, accordingly, closed.

RAJIV SHAKDHER, J

GIRISH KATHPALIA, J

MAY 3, 2023/ tr

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