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

% **Date of decision: 03.05.2023**

+ **ITA 252/2023**

PRINCIPAL COMMISSIONER OF INCOME TAX, CENTRAL-3,
DELHI Appellant

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

versus

ORIENTAL TOLLWAYS PVT LTD Respondent

Through: Mr Kushagra Pandit, Advocate.

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.22379/2023

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

1.1 According to the applicant/appellant/revenue, there is a delay of 55 days in re-filing the appeal.

2. Mr Kushagra Pandit, Advocate who appears on behalf of the respondent/assessee, says that he does not oppose the prayer made in the application.



3. Accordingly, the prayer made therein is allowed.
4. The application is 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 19.09.2022 passed by the Income Tax Appellate Tribunal [in short, “Tribunal”]. The Tribunal has sustained the deletion of the addition made by the Assessing Officer in exercise of powers under Section 14A of the Income Tax Act, 1961 [in short, “the Act”] read with Rule 8D of the Income Tax Rules, 1962 [in short, “the Rules”].
 - 6.1 To be noted, the amount of deletion which has been sustained is quantified at Rs.3,35,28,383/-. According to the Tribunal, no exempt income has been earned by the respondent/assessee during the period under consideration, and therefore, disallowance under Section 14A of the Act was not warranted.
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 the 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 the 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