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

Date of decision: 12.04.2023

+ **ITA 209/2023 & CM Nos.17389-90/2023**

PR. COMMISSIONER OF INCOME TAX Appellant

Through: Mr Sunil Agarwal, Sr Standing
Counsel with Mr Shivansh B. Pandey,
Jr Standing Counsel along with Mr
Utkarsh Tiwari, Adv.

versus

M/S RELIGARE ENTERPRISES LTD Respondent

Through: Mr Rohit Jain and Mr Aniket D.
Agrawal, Adv.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORDER

% **12.04.2023**

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

RAJIV SHAKDHER,J.: (ORAL)

**CM No.17389/2023 [Application filed on behalf of the appellant seeking
condonation of delay of 49 days in filing the appeal]**

1. This is an application moved on behalf of the appellant/revenue seeking condonation of delay in filing the appeal.
- 1.1 According to the appellant/revenue, there is a delay of 49 days.
2. Mr Rohit Jain, who appears on behalf of the respondent/assessee, says that he does not oppose the prayer made in the application.
3. Accordingly, the delay is condoned.
4. The application is disposed of.

CM No.17390/2023

5. Allowed, subject to just exceptions.

ITA 209/2023

6. This appeal concerns Assessment Year (AY) 2014-15.

7. The appeal is directed against the order dated 29.08.2022 passed by the Income Tax Appellate Tribunal [in short, "Tribunal"].

8. Broadly, the issue raised in the present appeal is as to whether disallowance under Section 14A of the Income Tax Act, 1961 [in short, "Act"] can exceed the amount of exempted dividend earned by the respondent/assessee.

9. This issue is covered against the appellant/revenue by the judgment rendered by this court in ***Joint Investments Pvt. Ltd. v. Commissioner of Income Tax***, (2015) 372 ITR 694 (Delhi) wherein, *inter alia*, the following observations have been made :

"9. The third, and in the opinion of this court, important anomaly which we cannot be unmindful is that whereas the entire tax exempt income is Rs.48,90,000/-, the disallowance ultimately directed works out to nearly 110 per cent of that sum, i.e., Rs.52,56,197. By no stretch of imagination can Section 14A or rule 8D be interpreted so as to mean that the entire tax exempt income is to be disallowed. The window for disallowance is indicated in Section 14A and is only to the extent of disallowing expenditure "incurred by the assessee in relation to the tax exempt income". This proportion or portion of the tax exempt income surely cannot swallow the entire amount as has happened in this case."

10. In this case as well, the admitted position is that the dividend income, exempt under Section 10(34) Act, earned by the respondent/assessee, was Rs.45,06,37,556/-. The respondent/assessee had itself made a disallowance under Section 14A of the Act amounting to Rs.1,93,75,05,498/-.

11. Over and above the aforesaid amount, the Assessing Officer (AO) had

sought to disallow the amount equivalent to Rs.28,63,13,621/-. Clearly, the disallowance sought to engulf the exempt dividend income earned by the respondent/assessee.

12. The ratio of the aforementioned judgment therefore, applies on all fours.

13. According to us, no substantial question of law arises for our consideration in the present appeal.

14. The appeal is, accordingly, closed.

15. Parties will act based on the digitally signed copy of the order.

RAJIV SHAKDHER, J

TARA VITASTA GANJU, J

APRIL 12, 2023

aj

[Click here to check corrigendum, if any](#)