



2023:DHC:9150-DE



\$~39

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

% *Date of decision: 13.12.2023*

+ **ITA 757/2023, CM APPL. 64453/2023 & 64454/2023**

D COMMISSIONER OF INCOME TAX Appellant
Through: Ms Anuja Pethia, Standing Counsel.

versus

MS JITE SHIPYARD 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)

1. This appeal concerns Assessment Year (AY) 2015-16.
2. *Via* the instant appeal, the appellant/revenue seeks to assail the order dated 27.03.2023 passed by the Income Tax Appellate Tribunal [in short, "Tribunal"].
3. It is not in dispute that the only issue that arises for consideration in the instant appeal is: Whether disallowance made under Section 14A of the Income-tax Act, 1961 [in short, "the Act"] can exceed the exempt income earned by the respondent/assessee?
4. There is no dispute that the issue raised, hereinabove, is covered by the following judgments:
 - (i) *Cheminvest Limited v. Commissioner of Income Tax-VI*, (2015) 61 taxmann.com 118.



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

5. To be noted, one of us [Rajiv Shakdher, J.], was part of the bench that authored the judgment in *Commissioner of Income-tax, Central 1, Chennai v. Chettinad Logistics (P.) Ltd.*. A special leave petition (SLP) filed by the appellant/revenue, against the said judgment, was dismissed by the Supreme Court on 02.07.2018 [reported in (2018) 95 taxmann.com 250 (SC)], both on the grounds of delay and merits.

6. The order of the Supreme Court in the said matter reads as follows:

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

7. In these circumstances, no substantial question of law arises for our consideration. The appeal is, accordingly, closed.

8. Consequently, the pending applications are rendered infructuous and are, accordingly, closed.

RAJIV SHAKDHER, J

GIRISH KATHPALIA, J

DECEMBER 13, 2023 / tr