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

% *Date of decision: 23.02.2023*

+ **ITA 108/2023 & CM APPL. 8819/2023**

PR. COMMISSIONER OF INCOME TAX-7 Appellant
Through: Mr Zoheb Hossain, Sr. Standing
Counsel, Mr Sanjeev Menon, Adv.
Versus

M/S RHC HOLDINGS PRIVATE LIMITED (EARLIER KNOWN
AS M/S RANBAXY HOLDING COMPANY) Respondent
Through: Mr Mayank Nagi, Adv. with Mr
Tarun Singh, Adv.

CORAM:
HON'BLE MR JUSTICE RAJIV SHAKDHER
HON'BLE MR JUSTICE VIKAS MAHAJAN

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

RAJIV SHAKDHER, J.: (ORAL)

CM APPL. 8819/2023 [Application filed on behalf of the appellant/revenue seeking condonation of delay of 416 days in re-filing the appeal].

1. This is an application filed on behalf of the appellant/revenue seeking condonation of delay in re-filing the appeal.
2. According to the appellant/revenue, there is a delay of 416 days in re-filing the appeal.
3. Mr Mayank Nagi, who appears on behalf of the respondent/assessee, says that he would have no objection if the delay is condoned.
4. It is ordered accordingly.

5. The application is, accordingly, disposed of.

ITA 108/2023

6. This appeal is directed against the order of the Income Tax Appellate Tribunal [in short, “the Tribunal”] dated 03.04.2019 concerning Assessment Year (AY) 2006-07.

7. The short point which arose for consideration before the Tribunal was whether or not the calculation of disallowable expenses made by the respondent/assessee, on its own, under Section 14A of the Income Tax Act, 1961 [in short “Act”] was correct.

8. To be noted, the respondent/assessee had earned dividend income amounting to Rs. 86,88,44,673/-, which was excluded from total income in terms of Section 10(34) of the Act.

9. The respondent/assessee had, on its own as indicated above, worked out disallowance under Section 14A of the Act to the extent of Rs. 55,59,79,000/-.

10. The breakup of this amount, as per the record, is as follows:

(i) Rs 55,37,89,473/- was attributed to interest expenses, while the remaining amount, i.e., Rs 21,89,527/- was attributed to administrative expenses, *albeit* based on estimation.

11. In sum, the respondent/assessee has taken the stand that it had incurred a cumulative amount of Rs. 55,59,79,000/- to earn the aforementioned dividend income and, therefore, this amount had to be disallowed as an expenditure under Section 14A of the Act.

12. The Tribunal has accepted the method of calculation put forth by the respondent/assessee, and in this behalf, has observed that the method adopted in the AY in issue, was also followed, as well as accepted by the

appellant/revenue, in other assessment years.

12.1 Observations in this behalf are recorded in paragraph 12, 13 and 14 of the impugned order.

12.2 The Tribunal invoked the rule of consistency as enunciated by the Supreme Court in *Radha Soami Satsang v Commissioner of Income Tax* [1992] 193 ITR 321 and, thus, dismissed the appeal of the revenue.

13. We may note that the respondent/assessee had also filed cross-appeal against the order of the Commissioner of Income Tax (Appeals) [in short, "CIT(A)"], to the extent that he had upheld the disallowance of amount equivalent to Rs 1.97 crores on account of administrative personal expenses.

14. The Tribunal *via* impugned order dismissed the appeal of the respondent/assessee.

15. It is also pertinent to note that the appellant/revenue took recourse to provisions of Rule 8D of the Income Tax Rules, 1962 to support its plea that the disallowance had to be calculated through different methodology.

16. The Tribunal held that the said rule was applicable only from AY 2008-09.

16.1 In this context, Mr Zoheb Hossain, who appears on behalf of the appellant/revenue, does not dispute this aspect of the matter, in view of the judgment rendered by the Supreme Court in *Commissioner of Income Tax 5 Mumbai Vs. Essar Teleholdings Ltd.* (2018) 3 SCC 253.

17. Given the aforesaid position, we are not inclined to interfere with the impugned order, as according to us, no substantial question of law arises for consideration.

18. This appeal is, accordingly, dismissed.

19. Parties will act based on digitally signed copy of this order.

RAJIV SHAKDHER, J

VIKAS MAHAJAN, J

FEBRUARY 23, 2023 / SA

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

