

\$~

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

5.

+

ITA 535/2015

PR.CIT

..... Appellant

Through: Mr N. P. Sahni, Senior Standing Counsel
with Mr Nitin Gulati, Junior Standing Counsel.

versus

BHARAT HOTELS LTD

..... Respondent

Through: Mr Ajay Vohra, Senior Advocate with
Mr Prakash Kumar and Ms Bhuvita, Advocates.

AND

✓ 6.
+

ITA 536/2015

PR. CIT

..... Appellant

Through: Mr N. P. Sahni, Senior Standing Counsel
with Mr Nitin Gulati, Junior Standing Counsel.

versus

BHARAT HOTELS LTD

..... Respondent

Through: Mr Ajay Vohra, Senior Advocate with
Mr Prakash Kumar and Ms Bhuvita, Advocates.

CORAM:

HON'BLE DR. JUSTICE S.MURALIDHAR

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

%

11.08.2015

1. These appeals by the Revenue under Section 260 A of the Income Tax

Signature Not Verified

Digitally Signed

By:AMULYANITA 535/2015

5

Act, 1961 ('Act') are directed against the order dated 29th December, 2014 passed by the Income Tax Appellate Tribunal ('ITAT') in ITA Nos.4959/Del/2012 and 5401/Del/2013 for the Assessment Years ('AY') 2009-10 and 2010-11.

2. As far as the issue relating to depreciation being allowed to the Assessee in respect of the World Trade Centre and the World Trade Tower buildings under Section 32 of the Act, the question stands answered against the Revenue by an order dated 24th July 2015 passed by this Court in ITA No.69/2000 (*CIT v. Bharat Hotels Ltd.*).

3. The other issue in these appeals is whether the addition made by the Assessing Officer ('AO') invoking Section 14A of the Act read with Rule 8D of the Income Tax Rules, 1962 was justified? In this regard, the ITAT has in the impugned order noted the following "undisputed facts":

- "(i) The assessee did not receive dividend during the year under consideration.
- (ii) The investment was made by Assessee Company in subsidiary companies for strategic purposes.
- (iii) The investment during the year was made in a subsidiary company which was situated outside India and, therefore the dividend income if

6

any received from foreign companies was not exempt.”

4. The ITAT has rightly followed the decision of this Court in *CIT v. Holcim India Pvt. Ltd. (2014) 272 CTR (Del) 282* and held that since no exempt dividend income was earned the question of invoking Section 14 A of the Act read with Rule 8D did not arise.

5. The Revenue has not been able to persuade this Court that the above factual determination is perverse or that in the facts and circumstances of the decision of this Court in *CIT v. Holcim Pvt. Ltd. (supra)* would not apply.

6. Consequently, no substantial question of law arises. The appeals are dismissed.



S.MURALIDHAR, J



VIBHU BAKHRU, J

AUGUST 11, 2015
MK