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

+ **ITA 344/2017**

THE PR.COMMISSIONER OF INCOME TAX-4 Appellant

Through: Mr.Ruchir Bhatia, Advocate

Versus

HCL COMNET LTD.

..... Respondent

Through: Ms. Kavita Jha, Advocate with
Ms.Roopali Gupta, Adv.

**CORAM: JUSTICE S.MURALIDHAR
JUSTICE CHANDER SHEKHAR**

O R D E R

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03.05.2017

C.M. No. 16845/2017(Delay in re-filing)

1. For the reasons explained in the application, the delay in re-filing is condoned and the application is disposed of.

C.M.No. 16846/2017 (Exemption)

2. Allowed, subject to all just exceptions.

ITA No. 344/2017

3. The Revenue has filed this appeal under Section 260A of the Income Tax Act, 1961 ('Act') against an order dated 19th August, 2016 passed by the Income Tax Appellate Tribunal (ITAT) in ITA No. 6142/Del/2012 and ITA No. 5898/Del/2012 for the Assessment Year ('AY') 2009-10. The issue urged by the Revenue relates to the deletion of an addition of Rs. 1,06,61,713/- made by the Assessing Officer ('AO') under Section 14A read

with Rule 8D of the Income Tax Rules, 1962.

4. It is to be noted at the outset that the Commissioner of Income Tax (Appeals) had accepted the case of the Assessee that the interest expenditure was not co-related to the exempt income. The concurrent finding of the ITAT in this regard in the impugned order reads as under:-

“31.1 From this he (CIT(A)) observed that the interest of Rs. 274.68 lakhs was paid for the loans taken from Cisco Systems and HSBC for utilization of the same for NSE project and for business purposes. The assessee also paid interest of Rs.3.20 lakhs for vehicles taken on lease. Apart from the above, the assessee had paid Rs. 147.47 lakhs on account of bank charges during the period. He pointed out that none of the financial charges were related to the investment made by the assessee and investment in dividend yielding assets was made out of assessee's own funds or funds borrowed from the holding company and no part of interest expenditure could be held as incurred for earning exempt income. This specific finding of Id. CIT(A) has not at all been controverted by the department by bringing any evidence on record and, therefore, we confirm the findings of Id. CIT(A) in deleting the disallowance of Rs.79,18,827/- made on account of interest expenditure relatable to earning of exempt income by AO. In the result this ground is dismissed.”

5. Since the finding that even the interest expenditure beyond Rs. 274.68 lakhs was made from either the own funds or the borrowing from the holding company and this fact and finding was not controverted by the Revenue, the Court does not find any substantial question of law arising from the said finding.

6. The appeal is, accordingly, dismissed.

S.MURALIDHAR, J

CHANDER SHEKHAR, J

MAY 03, 2017
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