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

\+ ITA 851/2016, CM APPL.44317/2016
ITA 852/2016, CM APPL.44318/2016

PRINCIPAL COMMISSIONER OF INCOME TAX-4 ..... Appellant
Through: Mr. Zoheb Hossain, Sr. Standing Counsel with Mr. Deepak Anand, Jr. Standing Counsel.

versus

INDIAN SUGAR EXIM CORPORATION LTD ..... Respondent
Through: Ms. Monika Ghai, Advocate.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE NAJMI WAZIRI

<u>O R D E R</u>

% 18.01.2017

The question of law sought to be urged in these cases is in respect of the disallowance as against tax exempt income of ₹1,65,492/- for AY 2010-11. The Assessing Officer based upon his analysis of Rule 8D of the Income Tax Rules disallowed the sum of ₹2,45,34,198/-. This, however, was reduced by the CIT (A) to ₹16,24,198/- in addition to the original disallowance offered by the assessee which was ₹2,69,428/-, thus adding up to ₹18,93,626/-. The ITAT set aside the order of the CIT (A) by adopting the following reasoning: -

"9. We have carefully heard the rival contention. We first

address the argument of the assessee that whether disallowance u/s 14A can exceed exempt income or not. Hon'ble Delhi High Court in the case of Joint Investment Pvt. Ltd. Vs. CIT in ITA No.117/2015 dated 25.02.2015 has held that disallowance u/s 14A rwr Rule 8D cannot exceed the entire tax exempt income. Therefore respectfully following the decision of Hon'ble Delhi High Court the disallowance is required to be restricted to Rs.1,65,492/- only. However, as the assessee on its own has made disallowance of Rs.2,69,428/- in the return of income, we restrict the disallowance as made by the assessee own its own. In view of this ground No.1 of the appeal is allowed reversing the order of the learned Commissioner of Income-tax (Appeals) and disallowance of Rs.16,24,198/- is directed to be deleted."

This Court is of the opinion that having regard to the ruling in *Joint Investment Pvt. Ltd. v. CIT* (2015) 372 ITR 694 (Delhi) followed by the ITAT, no question of law arises; the appeals are accordingly dismissed, along with pending applications.

S. RAVINDRA BHAT, J

NAJMI WAZIRI, J

JANUARY 18, 2017
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