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* IN THE HIGH COURT OF DELHI AT NEW DELHI
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\+ ITA 468/2017

THE PR. COMMISSIONER OF INCOME TAX-4 ..... Appellant
Through: Mr Puneet Rai, Standing Counsel

versus

GE CAPITAL SERVICES INDIA ..... Respondent
Through: Mr Amaya Pant, Advocate

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE PRATHIBA M. SINGH

O R D E R
% **23.08.2017**

1.This is an appeal under Section 260A of the Income Tax Act, 1961 ('Act') directed by the Revenue against the order dated 6th June, 2016 passed by the Income Tax Appellate Tribunal ('ITAT') in ITA Nos.2808/Del./2007 and 2898/Del./2007 for the Assessment Year ('AY') 2001 – 2002.

2. The short question sought to be urged in the present appeal by the Revenue is whether the ITAT erred in confirming the order of the Commissioner Income Tax (Appellate) deleting the addition made by the Assessing Officer ('AO') under Section 14A in the sum of Rs.12,65,44,530/- on account of interest paid on the borrowed funds utilized for making investment in shares yielding exempt income.

3. The further ground urged is that the ITAT erred in deleting the addition of

Rs.25 lacs made by the AO on account of purported management/administrative expenses and other costs attributed towards earning dividend income.

4. A perusal of the impugned order passed by the ITAT reveals that both the disallowances were made by the AO on ad hoc basis. The ITAT relied on the order passed earlier by a coordinate Bench of the ITAT for AY 2000-2001 deciding an identical issue in favour of the Assessee. The ITAT noted that there was no change in the facts and circumstances or the legal position requiring a different view to be taken.

5. In any event, the Court finds that the disallowances were made by the AO on ad hoc basis. As explained by this Court in ***CIT v. State Trading Corporation Ltd.*** [decision dated 17th August, 2012 in ITA No.344/2012], even prior to Rule 8D, the disallowance under Section 14 A of the Act had to be on some reasonable basis.

6. Having heard Mr Puneet Rai, learned Standing Counsel for the Revenue and having perused the order passed by the ITAT, the Court is not inclined to frame any question of law. The appeal is accordingly dismissed, but in the circumstances, with no orders as to costs.

S.MURALIDHAR, J.

PRATHIBA M. SINGH, J.

AUGUST 23, 2017
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