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

\+ ITA 715/2017 & CM No.31470/2017

PR. COMMISSIONER OF INCOME TAX-9 ..... Appellant
Through: Mr. Zoheb Hossain, Sr. Standing Counsel for Revenue.

versus

M/S. TIMES INTERNET LTD. ..... Respondent
Through: Mr. Salil Aggarwal and Mr. Uma Shankar, Advs.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE SUNIL GAUR

O R D E R

% **06.09.2017**

1. The two questions of law urged on behalf of the Revenue, in its appeal under Section 260A of the Income Tax Act, 1961 (hereafter referred to as “the Act”) are whether the amounts claimed by the assessee as lease rentals for the period from 01.04.2005 to 01.08.2005, were rightly disallowed by the lower authorities and secondly whether the quantum of disallowance under Section 14A of the Act and the method of arriving at it, is valid and legal.

2. The assessee in this case is a wholly owned subsidiary of Bennett Coleman & Co. Ltd. and was at the relevant time engaged in the business of providing information technology services, internet related services and

systems. It also *inter alia* operates and manages the web portal www.indiatimes.com. In its return for Assessment Year 2006-07, it reported a total income of ₹21,58,20,209/-. The bone of contention in these appeals pertains to firstly the amount claimed as lease rentals. The AO and subsequently the CIT disallowed a four month period between April and August, 2005. The main premise for this conclusion was that a lease deed was entered into subsequently and contained a specific recital to the effect that possession had been handed over on that date (i.e. date of execution of the lease deed). Though the AO and CIT(A) held against the assessee, the ITAT upset those findings based upon a letter of the lessor/parent company dated 03.03.2010.

3. This Court is of the opinion that merely because the lower authorities had concurred on facts, did not absolve the ITAT of its responsibility of enquiring into the facts. Nothing was shown on the part of the revenue/appellant to say that the letter of 03.03.2010 was justifiably overlooked by the CIT(A) or that it was not genuine. In these circumstances, being purely a finding of fact, the Court is of the opinion that no question of law arises.

4. As far as the second issue is concerned, the discussion by the ITAT – as indeed that of the CIT(A) reveals that the initial sum disallowed of ₹36,43,000/-, was held to be without jurisdiction because it was for a pre- rule period and therefore the CIT(A) applied the decision of this Court in *Maxopp Investments v. CIT,* (2012) 347 ITR 272 (Del).

5. In these circumstances, the matter was remanded for working out a reasonable amount as mandatory disallowance towards exempted income

under Section 14. The AO, therefore, complied and returned a much lower figure of ₹2,00,000/-. Having regard to these circumstances, the Court is of the opinion that there is no question of law involved as far as this issue is concerned.

6. In the light of the above findings, no substantial question of law arises for consideration.

The appeal is, therefore, dismissed.

S. RAVINDRA BHAT, J

SUNIL GAUR, J

SEPTEMBER 06, 2017
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