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

\+ ITA 245/2018

PRINCIPAL COMMISSIONER OF INCOME TAX-7 ..... Appellant
Through Mr. Sanjay Kumar and Mr. Rahul Chaudhary, Standing Counsel.

versus

ORIENTAL BANK OF COMMERCE ..... Respondent
Through None.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE A. K. CHAWLA

O R D E R

% **26.02.2018**

In the Revenue's appeal directed against the order of the ITAT, the question urged is with respect to the deletion of disallowance under Section 14A. The Revenue relies upon the decision in *Pr. Commissioner of Income-tax, Delhi-2 v. Bharti Overseas (P) Ltd.* [2015] 64 taxmann.com 340 (Delhi)

In the Revenue's appeal for previous years (ITA 592 and 594/2017), this Court had rejected the Revenue's contention and accepted the ITAT's findings holding as follows:-

> *"4. However, the Court finds that in the present case, the CIT(A) has rightly commented that the AO has not, as mandated by Rule 8D (1) of the Rules, examined the accounts of the Assessee before concluding that the claim of the Assessee that it incurred no interest expenditure for the purposes of making investments was untrue. On the contrary, the CIT(A)*

notes that the Assessee has throughout been asserting that it had more than sufficient interest free fund for the purposes of making investments. There was no occasion for the Assessee to incur any interest expenditure for the purpose. It is this factual finding that has been concurred with by the ITAT.

5.The net result is that without complying with Rule 8D (1) of the Rules by recording that he is not satisfied with the correctness of the Assessee's assertion that "no expenditure has been incurred has been incurred in relation to the exempt income", the AO could not have straightway proceeded to draw a presumption and apply Rule 8D (ii)(2) of the Rules that some interest expenditure should have been incurred by the Assessee for the purposes of making investments which yielded exempt income.

6. The orders passed by the CIT(A) and the ITAT do not suffer from any legal infirmity."

For the same reasons, for AY 2010-2011, it is held that the ITAT's approach does not disclose any error in law. No substantial question of law, therefore, arises.

The appeal is dismissed.

S. RAVINDRA BHAT, J

A. K. CHAWLA, J

FEBRUARY 26, 2018

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