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

\+ ITA 363/2018 & CM APPL. 11644/2018

PRINCIPAL COMMISSIONER OF INCOME TAX (CENTRAL) – 1 ..... Appellant

Through: Mr. Sanjay Kumar with Mr. Rahul Chaudhary, Standing Counsels for Revenue.

versus

M/S MOON STAR SECURITIES TRADING & FINANCE CO. PVT. LTD. ..... Respondent

Through: None.

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

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

% **23.03.2018**

The question of law urged is identical to what was urged by the Revenue in ITA 81/2018 and ITA 83/2018 (*Principal Commissioner of Income Tax (Central)-1 v. M/s Moonstar Securities Trading and Finance Co. Pvt. Ltd.)* with respect to disallowance under Section 14A of the Income Tax Act, 1961 (hereafter referred to as “the Act”). The additions were made in the course of search assessment under Section 153A of the Act. Those appeals were rejected on the ground that no substantial question of law arose when the Court on 24.01.2018 held as follows:

> *“In these two appeals, identical questions are sought to be urged with respect to the disallowance made under Section 14A. The assessee had claimed*

receipt of tax exempt income by way of dividends for the relevant years. It was subjected to search and was issued with notices under Section 153A. Disallowances were made in the course of the search assessment proceedings. The relief granted by the impugned order was based upon the decision of this Court in CIT-VI v. Taikisha Engineering India Ltd., 370 ITR 338 (Del) where it was held that unless the Assessing Officer rejected the explanation or the rationale which induced the assessee to offer particular amount as expenditure with some reasoning, the mere rejection per se cannot be accepted. In this case for both years, the assessee had offered amounts as disallowance claiming them to be expenditure for tax exempt income. The Assessing Officer merely proceeded to reject such amount as expenditure and straightaway applied Rule 8D without adducing any reasons. Consequently, the principle enunciated in Taikisha Engineering (supra) clearly applied.

As a result, it is held that the ITAT did not fall into error in holding as it did; no substantial question of law arises. The appeals are accordingly dismissed."

For the same reasons, this appeal too is unmerited; no substantial question of law arises. The appeal is dismissed.

S. RAVINDRA BHAT, J

A. K. CHAWLA, J

MARCH 23, 2018/kks