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

\+ ITA No. 1261/2018

PR. COMMISSIONER OF INCOME TAX CENTRAL - 1
..... Appellant
Through Mr. Zoheb Hossain, Sr. Standing Counsel.

versus

M/S PEPSICO INDIA HOLDING PVT. LTD. ..... Respondent
Through Mr. Deepak Chopra, Ms. Rashi Khanna & Mr. Yojit Pareek, Advocates.

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

O R D E R
% **05.12.2018**

CM No. 46987/2018

Delay in re-filing of the appeal is condoned for reasons explained and stated in the application. Application is allowed.

ITA No. 1261/2018

Having heard learned counsel for the Revenue, we are not inclined to admit the present appeal as the issue of disallowance under Section 14A of the Income Tax Act, 1961 has been adjudicated and decided by the Supreme Court in ***Maxopp Investment Limited versus Commissioner of Income Tax, New Delhi***, (2018) 402 ITR 640 (SC) and by the Delhi High Court in ITA No. 725/2018, ***Principal Commissioner of Income Tax-6, New Delhi versus McDonald's India Private Limited,*** decided on 22nd October, 2018.

In the present case, the exempt income in the form of dividend earned by the respondent-assesee was Rs.42,701/-. The disallowance under Section 14A sustained by the Income Tax Appellate Tribunal is Rs.1.17 crores.

2. In fact, we may observe that admission of the present appeal would be to the disadvantage of the Revenue in case a cross-objection is filed by the respondent-assessee. However, counsel for the Revenue states that he has been instructed not to withdraw the appeal.

3. The appeal is dismissed, as no substantial question of law arises for consideration.

SANJIV KHANNA, J.

ANUP JAIRAM BHAMBHANI, J.

DECEMBER 05, 2018
VKR