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

\+ ITA 75/2018

THE PR. COMMISSIONER OF INCOME TAX -5..... Appellant
Through Mr. Puneet Rai and Mr. Richir Bhatia, Advs.

versus

JAYPEE VENTRUES P. LTD ..... Respondent
Through

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

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

% **23.01.2018**

The solitary question of law urged in this appeal is with respect to the disallowance made under Section 14A of the Income Tax Act, 1961 ('the Act') by the Revenue to the tune of ₹3,07,63,450/-. The assesee/respondent, had for Assessment Year 2008-09, claimed a dividend of ₹ 34,81,86,873/-. Upon inquiry, it was asked by show cause notice as to why proportionate expenses by way of disallowance under Section 14A ought not to be added back to its income. Unsatisfied with the explanation, the Assessing Officer (AO) disallowed a sum of ₹ 3,23,90,104/-. In order to do so, the AO applied the Rule 8D sub-clause (3) of the Income Tax Rules. The CIT(A) and the Income Tax Appellate Tribunal (ITAT) however, set aside the findings of the AO. Firstly, relying upon the decision of this Court in *Maxopp Investment Ltd. Vs. Commissioner of Income Tax*,

(2012) 347 ITR 272 (Delhi). It was held that the AO did not reject the explanation given by the assessee with respect to the disallowance offered by it for no reasons. This Court notices that the reasoning in *Maxopp Investment* (supra) was later followed in *Godrej & Boyce Vs. CIT*, 328 ITR 81 (Bom). It was later affirmed by the judgment of the Hon'ble Supreme Court in *CIT Vs. Godrej Boyce*, 394 ITR 449.

Since the findings of facts are concurrent and question of law is covered by the judgment of this Court, there is no merit in the appeal. It is accordingly dismissed.

S. RAVINDRA BHAT, J

A. K. CHAWLA, J

JANUARY 23, 2018
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