

\$~38 & 39

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

+ ITA 132/2018 & CM APPL.4652/2018

PR. COMMISSIONER OF INCOME TAX-6, NEW DELHI
..... Appellant

versus

METRO INSTITUTE OF MEDICAL SCIENCES
..... Respondent

+ ITA 133/2018

PR. COMMISSIONER OF INCOME TAX-6, NEW DELHI
..... Appellant

versus

METRO INSTITUTE OF MEDICAL SCIENCES PVT. LTD.
..... Respondent

Present: Mr. Asheesh Jain, Sr. Standing Counsel with
Mr. Shahrukh Ejaz, Adv. for Income Tax Deptt.
None for respondent.

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

ORDER
% **06.02.2018**

In these two appeals, the grievance articulated is with respect to the deletion of disallowance under Section 14A of the Income Tax Act, 1961 (hereafter referred to as 'the Act'). For A.Y. 2010-11, initially, the disallowance under Section 14A of the Act, by applying Rule 8D(2)(iii) of the Income Tax Rules, was directed to

be deleted on application of the principle enunciated in *MSA Securities Services Pvt. Ltd. v. Assistant Commissioner of Income Tax* (2013) 22 ITR(T) 400 (Chennai – Trib.). This was on account of the fact that the investment was made in the subsidiary company and no dividend or exempt income was actually derived from it. For the next year, i.e. A.Y. 2009-10, the ITAT was of the opinion that since, in fact, no exempt income was obtained, the ruling of this Court in *Cheminvest Ltd. v. Commissioner of Income Tax* 378 ITR 33 (Del.) was applicable.

This Court is of the opinion that the rationale indicated by the ITAT in both the cases is sound and reasonable. For A.Y. 2010-11, concededly there was no dividend or exempt income – which is the fundamental premise for the applicability of Section 14A of the Act. For the other year again, since no income was derived, the reasoning in *Cheminvest Ltd. (supra)* squarely applies. Consequently, the appeals have no merit and are accordingly dismissed.

S. RAVINDRA BHAT, J

A. K. CHAWLA, J

FEBRUARY 06, 2018
kks