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

\+ ITA 458/2018 & CM APPL. 14550-14551/2018

THE PR. COMMISSIONER OF INCOME TAX -CENTRAL-3 ..... Appellant

Through: Mr. Ruchir Bhatia, Advocate.

versus

HFCL INFOTEL LTD. ..... Respondent

Through:

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

O R D E R

% **16.04.2018**

The only question urged by the Revenue in this appeal under Section 260-A of the Income Tax Act, 1961 (hereinafter 'the Act') is with respect to the disallowance under Section 14 of the Act; it is urged that the Income Tax Appellate Tribunal ('ITAT') erred in accepting the reasoning of the CIT(A).

The facts disclosed in the appeal are that the assessee's returns were subjected to disallowance under Section 14-A of the Act on an application of Rule 8D of the Income Tax Rules, 1962 (hereinafter 'the Rules'). The Assessing Officer applied Rule 8D of the Rules after rejecting the assessee's contention with respect to its introduction for a later year reasoning that since it merely prescribed the procedure for determination of the disallowance, mandated by Section 14-A of the Act, it could be legitimately applied. The assessee's appeals were allowed by the CIT(A) which was an order that was upheld by the ITAT. Both the lower Appellate Authorities were of the opinion that Rule 8D of the Rules had no application and that the AO fell into error in not recording any satisfaction while rejecting the alternative voluntary disallowance amounts offered by the assessee. In these circumstances, the amounts offered as disallowance under Section 14A of the Act were accepted.

This Court has considered the facts and feels no infirmity in the application of law. Concededly, the AO was under a duty to first record satisfaction of the amounts offered by the assessee, cannot be or is not a reasonable estimate of the amounts expended towards earning exempt income that would be subject to disallowance under Section 14-A of the Act. The consistent approach of the various High Courts has been upheld recently by the Supreme Court in *'Godrej and Boyce Mfg. Co. Ltd. vs. DCIT',* (2017) 394 ITR 449 (SC).

No question of law therefore arises on this aspect. The appeal is dismissed along with the pending applications.

S. RAVINDRA BHAT, J

A. K. CHAWLA, J

APRIL 16, 2018

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