IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

ITA-411-2018 (O&M)

Date of Decision: 29.4.2019

The Principal Commissioner of Income Tax, Gurgaon

....Appellant.

Versus

DLF Universal Ltd. (formerly known as DLF Retain Developers Ltd.)

...Respondent.

CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL.

PRESENT: Mr. Tajender K. Joshi, Sr. Standing Counsel for the appellant.

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AJAY KUMAR MITTAL, J.

1. This order shall dispose of two appeals bearing ITA Nos.411 and 424 of 2018 as according to learned counsel for the revenue, identical questions of law and facts are involved therein. For brevity, the facts are being extracted from ITA-411-2018.

2. ITA-411-2018 has been preferred by the revenue under Section 260A of the Income Tax Act, 1961 (in short "the Act") against the order dated 19.3.2018 (Annexure A-III) passed by the Income Tax Appellate Tribunal, Delhi Bench 'G', New Delhi (hereinafter referred to as "the Tribunal") in ITA No. 2681/DEL/2016, for the assessment year 2012-13, claiming the following substantial question of law:-

> "Whether, on the facts and in the circumstances of the case and in law, the Hon'ble ITAT was right in upholding

the finding of the CIT (Appeals) in deleting the addition made on account of disallowance u/s 14A of the Income Tax Act, 1961, ignoring the CBDT Circular No. 5 of 2014 dated 11.2.2014 which clarifies that disallowance under Rule 8D read with Section 14A of the Income Tax Act, 1961 is to be made even when the taxpayer in a particular year has not earned any exempt income?"

3. Briefly stated, the facts necessary for adjudication of ITA-411-2018 as narrated therein may be noticed. The assessee filed its return of income for the assessment year 2012-13 on 30.9.2012 declaring loss of ₹ 217,71,42,517/-. Thereafter, the assessee filed its revised return of income on 29.3.2014 declaring loss. The Assessing Officer vide order dated 13.11.2014 (Annexure A-I) completed the assessment under Section 143(3) of the Act. The Assessing Officer had made the disallowance of ₹ 1,95,62,312/- under Section 14A of the Act on tax free income of ₹ 10,76,553/- which was dividend income. Feeling aggrieved, the assessee filed an appeal before the Commissioner of Income Tax (Appeals) [for brevity "the CIT(A)"]. The CIT(A) vide order dated 2.3.2016 (Annexure A-II) allowed the appeal and deleted the disallowance of ₹ 1,95,62,312/- under Section 14A of the Act read with Rule 8D of the Income Tax Rules, 1962. Against the order, Annexure A-II, the revenue filed an appeal before the Tribunal. The Tribunal vide order dated 19.3.2018 (Annexure A-III) upheld the order of the CIT(A) and dismissed the appeal of the revenue. Hence, the present appeals by the revenue.

4. We have heard learned counsel for the revenue.

5. It could not be disputed by the learned counsel for the revenue

that the issue involved in the appeal is covered by the judgment of this Court in **ITA-322-2016 (Principal Commissioner of Income Tax-I, Chandigarh v. M/s Vardhman Chemtech Private Limited, Chandigarh)** decided on 28.8.2018, wherein the appeal filed by the revenue against the deletion of disallowance of ₹ 40,28,526/- under Section 14A of the Act read with Rule 8D of the Rules, was dismissed.

6. Accordingly, the present appeals are also dismissed in terms of ITA-322-2016.

7. CM-25089-CII-2018 has been filed under Section 5 of the Limitation Act, 1963 for condonation of 4 days' delay in filing ITA-424-2018. Since the appeal has been dismissed on merits, no further orders are required to be passed in the application for condonation of delay in filing the appeal and the same is disposed of as such.

(AJAY KUMAR MITTAL)
JUDGE

April 29, 2019
gbs

(MANJARI NEHRU KAUL)
JUDGE

Whether Speaking/Reasoned **Yes/No**

Whether Reportable **Yes/No**