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

\+ ITA 144/2019

PR. COMMISSIONER OF INCOME TAX-4, DELHI ..... Appellant

Through: Mr.Asheesh Jain, Sr.Std.Counsel with Mr.Sanjay Kumar & Mr.Dushyant Sarna, Advocates

versus

INDUCTIS (INDIA) PVT. LTD. ..... Respondent

Through: Mr.Vishal Kalra & Mr.S.S.Tomar, Advocates

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

% **12.02.2019**

1. Three grounds are urged by the Revenue, which relate to the following:

(i) ITAT's order holding that the disallowance under Section 14A was impermissible;

(ii) That the ITAT has not taken the correct view regarding interest on receivables, beyond the contractual credit period; and

(iii) Lastly, transfer pricing adjustment on account of deletion of two comparables.

2. The assessee engages itself in the business of IT enabled services in the medical sector. The AO had brought to tax certain amounts by applying disallowance under Section 14A. This was deleted by the impugned order which noticed that in fact no tax exempted income was earned during the assessment year A.Y.2011-12. Since *Cheminvest Ltd. vs. CIT* (2015) 378 ITR 33 prevails, no substantial question of law arises on this ground.

3. The second question sought to be urged is with respect to interest income attributable on delayed receipts beyond contractually agreed period i.e. ninety days. The Tribunal took note of the decisions of this Court in *Avenue Asia Advisors Pvt. Ltd. vs. DCIT* (2017) 398 ITR 120 and *Kusum Healthcare Pvt. Ltd. vs. ACIT* (2015) SCC Online ITAT 4216, and has remitted the matter for factual analysis especially with respect to the question whether the assessee was debt free at the relevant point of time. In these circumstances, no question of law arises.

4. The last issue urged is with respect to the issue of comparables. The first comparable excluded by ITAT's order i.e. *Accentia Technologies Ltd.,* was excluded on the basis that the company was functionally dissimilar and that the segmental data for the assessment year with regard to the comparable segment was not available. The second comparable directed to be excluded i.e. *TCS E-Serve Ltd.,* was on the ground that the concern provided high end online software solutions unlike the assessee, which provided internet based medical health related services. The real services, therefore, were entirely dissimilar. We are of the opinion that this aspect is not a question of law, rather a factual one and does not call for any interference.

5. For the above reasons, this Court is of the opinion that no substantial question of law arises.

6. The appeal is accordingly dismissed.

S. RAVINDRA BHAT, J

PRATEEK JALAN, J

FEBRUARY 12, 2019/*'hkaur'*