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

\+ ITA 281/2019 & CM APPL. 14304/2019

THE PR. COMMISSIONER OF INCOME TAX -4.. Appellant
Through : Mr. Ruchir Bhatia, Sr. Standing Counsel.

versus

H.T. MEDIA LTD. ..... Respondent
Through : Mr. V.P. Gupta and Mr. Arunav Kumar, Advs.

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

<u>O R D E R</u>
% **29.03.2019**

Issue notice to the respondent.

Mr. V.P. Gupta, Advocate accepts notice on behalf of the respondent. With the consent of learned counsel, this appeal is heard.

The question urged by the Revenue in its appeal is with respect to the correctness of the remand made by the ITAT in its impugned order; the remand was on two aspects i.e. the calculation of average investments (confined to the income generating part thereof) and the exclusion of tax exempt income derived from strategic investments.

The observation of the ITAT on the latter aspect, i.e. exclusion of tax exempt income derived from a strategic investments, is not a correct view in the light of the decision of the Supreme Court in

Maxopp Investment Ltd. Vs. Commissioner of Income Tax, (2018) 402 ITR 640. Accordingly, the observations of the ITAT on this aspect are set aside. However, its observations with respect to the calculation of disallowance under Section 14A being confined to investments that derived tax exempt income are valid in the light of the Division Bench ruling in *ACB India Ltd. v. ACIT,* (2015) 374 ITR 108 (Del).

In view of the above clarification, the ITAT's order, to the extent that it makes observations with respect to exclusion of income derived from strategic investments, is hereby set aside.

This appeal is partly allowed.

S. RAVINDRA BHAT, J

PRATEEK JALAN, J

MARCH 29, 2019

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