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

\+ ITA 894/2019

THE PR. COMMISSIONER OF INCOME TAX -6..... Appellant

Through: Mr. Ruchir Bhatia, Advocate.

versus

MOET HENNESSY INDIA PVT. LTD. ..... Respondent

Through: Mr. Sumit Mangal, Advocate.

CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI
HON'BLE MR. JUSTICE SANJEEV NARULA

O R D E R

% **11.10.2019**

C.M. No. 44843/2019

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

C.M. No. 44842/2019

Delay in filing the appeal is condoned since it is only one day.

Application stands disposed of.

ITA 894/2019

The Revenue has preferred the present appeal to assail the order dated 24.04.2019 passed by the Income Tax Appellate Tribunal (ITAT) Delhi Bench: ‘E’, New Delhi in ITA No.5004/Del/2017 relating to assessment year 2013-14. The Tribunal has decided two issues in the said appeal. The first issue related to the expenditure incurred by the assessee towards advertisement. The issue raised was whether the same was capital expenditure or revenue expenditure. Today itself, we have dismissed Revenue's appeal being ITA No. 888/2019 on the same aspect, relating to the same assessee.

The other issue raised by the Tribunal was whether the assessee was entitled to claim deduction of expenses incurred towards bank guarantee commission charges. The Assessing Officer had denied the said deduction on the ground that the assessee had not deducted the TDS on the said commission at source by invoking Section 40(a)(ia). The ITAT has allowed the said deduction by placing reliance on proviso to Section 40(a)(ia) read with proviso to Section 201 of the Act and by following the decision of this Court in ***Principal Commissioner of Income Tax Vs. Make My Trip Private Limited*** in ITA No. 136/2019, decided on 25.03.2019.

In view of the aforesaid position, no question of law arises for our consideration in the present appeal. Accordingly, the appeal is dismissed.

VIPIN SANGHI, J

SANJEEV NARULA, J

OCTOBER 11, 2019
B.S.Rohella