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

% *Date of decision: 28.07.2023*

+ **ITAs 409/2023, 410/2023, 411/2023 & 412/2023**

PRINCIPAL COMMISSIONER OF INCOME TAX (CENTRAL)-3

..... Appellant

Through: Mr Abhishek Maratha, Sr Standing
Counsel with Mr Akshat Singh, Jr
Standing Counsel.

versus

BHILWARA ENERGY LTD

..... Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MR. JUSTICE GIRISH KATHPALIA

[Physical Hearing/Hybrid Hearing (as per request)]

RAJIV SHAKDHER, J.: (ORAL)

CM APPL. 38119/2023 in ITA 409/2023

CM APPL. 38122/2023 in ITA 410/2023

CM APPL. 38125/2023 in ITA 411/2023

CM APPL. 38128/2023 in ITA 412/2023

1. Allowed, subject to just exceptions.

CM APPL. 38117/2023 in ITA 409/2023

CM APPL. 38120/2023 in ITA 410/2023

CM APPL. 38123/2023 in ITA 411/2023

CM APPL. 38126/2023 in ITA 412/2023 *[Application filed on behalf of
the appellant/revenue seeking condonation of delay of 11 days in filing*

ITAs 409/2023 & connected matters

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ITAs 409/2023 & 411/2023 and 02 days in filing ITAs 410/2023 & 412/2023]

2. These are the applications moved on behalf of the appellant/revenue seeking condonation of delay in filing the appeal.

2.1 According to the appellant/revenue, there is a delay of 2 days in filing ITAs 410/2023 & 412/2023, while in ITAs 409/2023 & 411/2023, there is a delay of 11 days.

3. For the reasons, mentioned in the applications, the delay is condoned.

4. The applications are disposed of, in the aforesaid terms.

CM APPL. 38118/2023 in ITA 409/2023

CM APPL. 38121/2023 in ITA 410/2023

CM APPL. 38124/2023 in ITA 411/2023

CM APPL. 38127/2023 in ITA 412/2023 [Applications filed on behalf of the appellant/revenue seeking condonation of delay of 118 days in re-filing]

5. These are the applications moved on behalf of the appellant/revenue seeking condonation of delay in re-filing the appeal.

5.1 According to the appellant/revenue, there is a delay of 118 days.

6. For the reasons given in the applications, the delay is condoned.

7. The applications are disposed of, in the aforesaid terms.

ITAs 409/2023, 410/2023, 411/2023 & 412/2023

8. These appeals concern Assessment Years (AYs) 2014-15 (ITA 409/2023), 2015-16 (ITA 410/2023), 2017-18 (ITA 411/2023) and 2016-17 (ITA 412/2023).

9. Via these appeals, the appellant/revenue seeks to assail the common order of the Income Tax Appellate Tribunal [in short, "Tribunal"] dated



02.08.2022.

10. Mr Abhishek Maratha, senior standing counsel, who appears on behalf of the appellant/revenue, submits that the issue that arises for consideration is whether the Tribunal was right in sustaining the deletion of disallowance under Section 14A of the Income Tax Act, 1961 [in short, “Act”] in view of the fact that no income exempt from tax had been earned during the relevant period.

11. According to us, the issue is covered by the following decisions:

(i) Judgement dated 02.09.2015 passed in ITA 749/2014, titled ***Cheminvest Limited v. Commissioner of Income Tax-VI.***

(ii) ***Commissioner of Income-tax, Central 1, Chennai v. Chettinad Logistics (P.) Ltd.*** [2017] 80 taxmann.com 221 (Madras).

(iii) Order dated 30.05.2023 passed in ITA Nos. 316/2023 and 317/2023, titled ***Principal Commissioner of Income Tax Delhi 4 v. IL And FS Energy Development Co Ltd.***

12. Insofar as ***Chettinad Logistics (P.) Ltd.*** is concerned, one of us [i.e., Rajiv Shakdher, J.] was a member of the Bench.

12.1 Mr Maratha does not dispute that a Special Leave Petition (SLP) was preferred against the said judgment, which was dismissed *via* order dated 02.07.2018; which is reported in [2018] 95 taxmann.com 250 (SC). The order passed by Supreme Court reads as follows:

“1. The Special Leave petition is dismissed on the ground of delay as well as on merits.”

13. Therefore, according to us, no substantial question of law arises for our consideration in the above-captioned appeals.



14. The appeals are, accordingly, dismissed.

(RAJIV SHAKDHER)
JUDGE

(GIRISH KATHPALIA)
JUDGE

JULY 28, 2023

v