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

% *Date of decision: 08.05.2023*

+ **ITA 263/2023**

PR. COMMISSIONER OF INCOME TAX (CENTRAL)-2

..... Appellant

Through: Mr Sanjay Kumar, Sr. Standing Counsel.

versus

M/S BHARAT HOTELS LTD.

..... Respondent

Through: Ms Ananya Kapoor, Advocate.

**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. 23111/2023**

1. Allowed, subject to just exceptions.

**CM APPL. 23112/2023** *[Application filed on behalf of the appellant seeking condonation of delay of 60 days in re-filing the appeal]*

2. This is an application moved on behalf of the appellant/revenue seeking condonation of delay in re-filing the appeal.

2.1 According to the appellant/revenue, there is a delay of 60 days.

3. Ms Ananya Kapoor, who appears on behalf of the respondent/assessee, says that she does not oppose the prayer made in the application.



4. Accordingly, the delay is condoned.
5. The application is disposed of, in the aforesaid terms.

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6. This appeal concerns Assessment Year (AY) 2015-16.
7. The appellant/revenue seeks to assail order dated 30.08.2022 passed by the Income Tax Appellate Tribunal [in short, “Tribunal”].
8. The only issue which arises for consideration, according to Mr Sanjay Kumar, senior standing counsel, who appears on behalf of the appellant/revenue, is whether disallowance made by the Assessing Officer (AO) under Section 14A of the Income Tax Act, 1961 [in short, “Act”], read with Rule 8D of the Income Tax Rules, 1962 [in short, Rules] can be deleted, in a situation when the assessee had not availed of any exempt income?
9. This issue stands covered by the following decisions:
  - (i) ***Cheminvest Ltd. v. CIT*** (2015) 378 ITR 33
  - (ii) ***CIT v. M/s Chettinad Logistics Pvt. Ltd.*** [2017] 80 taxmann.com 221 (Madras)
  - (iii) Judgment dated 03.05.2023 passed in ITA 250/2023 titled ***Principal Commissioner of Income Tax – 4 Delhi v. M/s Modern Info Technology Pvt. Ltd.***
10. Insofar as ***Chettinad Logistics*** is concerned, which included one of us i.e., Rajiv Shaktiher, J., the SLP filed against it was dismissed by the Supreme Court *via* order dated 02.07.2018 reported in [2018] 95 taxmann.com 250 (SC).



11. According to us, no substantial question of law arises for our consideration.
12. The appeal is, accordingly, closed.

**RAJIV SHAKDHER, J**

**GIRISH KATHPALIA, J**

**MAY 8, 2023 / tr**

