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

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Date of Decision: 09.05.2023

+ **ITA 266/2023**

**PR. COMMISSIONER OF INCOME TAX
(CENTRAL)-2**

..... Appellant

Through: Mr Sanjay Kumar, Sr Standing
Counsel with Ms Hemlata Rawat and
Ms Easha Kadian, Advs.

versus

M/S BHARAT HOTELS LTD.

..... Respondent

Through: Ms Ananya Kapoor with Mr Sumit
Lalchandani, Advs.

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.23547/2023

1. Allowed, subject to just exceptions.

CM Appl.23548/2023

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

2.1 According to the appellant/revenue, the period of delay involved is 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. The delay is, accordingly, condoned.

5. The application is disposed of in the aforesaid terms.

ITA 266/2023

6. This appeal concerns Assessment Year (AY) 2016-17.

7. The appellant/revenue seeks to assail the order dated 30.08.2022 passed by the Income Tax Appellate Tribunal [in short, "Tribunal"].

8. The only issue which arises for consideration is, whether the Tribunal was right in deleting the disallowance amounting to Rs.5,75,90,145/- under Section 14A of the Income Tax Act, 1961 [in short, "Act"] given the fact that the respondent/assessee has not earned any exempt income.

8.1 Mr Kumar cannot but accept, that the issue raised in the present appeal is covered *inter alia* by the following judgments:

(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.***

9. Insofar as the ***Chettinad Logistics*** is concerned, which included one of us i.e., Rajiv Shakhder, J., the SLP filed was dismissed by the Supreme Court *via* order dated 02.07.2018 reported in [2018] 95 taxmann.com 250 (SC).



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

RAJIV SHAKDHER, J

GIRISH KATHPALIA, J

MAY 9, 2023/pmc

