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

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*Date of Decision: 22.12.2023*

+ **ITA 808/2023 & CM Appl.67255/2023**

THE COMMISSIONER OF INCOME TAX –  
CENTRAL-1

..... Appellant

Through: Mr Ruchir Bhatia, Sr Standing  
Counsel.

versus

RRPR HOLDING PVT. LTD.

..... Respondent

Through: Nemo.

**CORAM:**

**HON'BLE MR. JUSTICE RAJIV SHAKDHER**

**HON'BLE MR. JUSTICE GIRISH KATHPALIA**

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

**RAJIV SHAKDHER, J.: (ORAL)**

1. This appeal concerns Assessment Year 2009-10.
2. *Via* the instant appeal, the appellant/revenue seeks to assail the order dated 18.08.2021 passed by the Income Tax Appellate Tribunal [in short, “Tribunal”].
3. A perusal of the appeal shows that the following questions of law are proposed for consideration by this court:
  - (i) *Whether ld. ITAT erred in the law by restricting the addition made under section 14A of the Act read with Rule 8D of the Act to the exempt income?*
  - (ii) *Whether ld. ITAT erred in law by relying upon the*



*decision of this Hon'ble Court in the case of Joint Investment Pvt. Ltd. Vs CIT, whereas the facts of the assessee's case is very different from the Joint Investment?*

*(iii) Whether the ld. ITAT erred in law by directing to net off the interest income (income from other sources) which had no nexus with interest expenditure incurred for earning exempt income?"*

4. Insofar as the proposed questions of law (i) and (ii) are concerned, Mr Ruchir Bhatia, learned senior standing counsel, who appears on behalf of the appellant/revenue, cannot but accept that they are covered against the appellant/revenue by virtue of the decision rendered by the coordinate Bench in the matter of ***Joint Investments (P) Ltd. vs. Commissioner of Income Tax*** 59 Taxmann.com 295.

5. The record shows that the exempt income earned by the respondent/assessee in the period in issue was Rs.37,93,374/-.

6. The Assessing Officer (AO), however, disallowed Rs.66,51,45,652/- by invoking the provisions of Section 14A read with Rule 8D of the Income Tax Rules, 1962. The ratio of the judgment of this court in ***Joint Investments (P.) Ltd.*** is simply this: the disallowance under Section 14A cannot exceed the exempt income.

7. This brings us to the proposed question no.(iii). The AO, after noting the fact that the respondent/assessee had earned income by way of interest, adjusted the interest expended towards 90% of the income. Thus, in fact, income by way of interest was quantified by the AO at Rs.11,27,234.

8. The Tribunal has, in our view, rightly deleted the addition by holding



that the actual interest expenditure had to be adjusted against the income earned by way of interest. This aspect is recorded in paragraph 14 of the impugned order. For convenience, the same is extracted hereafter:

*“14. It is an undisputed fact that the assessee has parked its surplus funds in fixed deposits of the bank from which it earned interest income of Rs.1,12,72,374/-. At the same time, we find that the assessee has also paid interest to the bank. In our considered opinion, interest earned has to be netted off with interest expenditure. We, accordingly, direct the Assessing Officer to net off interest income of Rs.1,12,72,374/- with interest expenditure.”*

9. In our view, this is the correct approach. Thus, no question of law even with regard to the proposed question no.(iii) arises for our consideration.
10. Accordingly, the appeal is closed.
11. Consequently, pending application shall stand closed.

**RAJIV SHAKDHER, J**

**GIRISH KATHPALIA, J**

**DECEMBER 22, 2023/pmc**