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

\+ ITA 56/2024

COMMISSIONER OF INCOME TAX (TDS)-2..... Appellant

Through: Mr. Vipul Agarwal, SSC with Mr. Gibran Naushad & Ms. Sakashi Shairwal, JSCs.

Versus

M/S TV TODAY NETWORK LTD. ..... Respondent

Through: Mr. Salil Aggarwal, Sr. Adv. with Mr. Mahir Aggarwal & Mr. Madhur Aggarwal, Advs.

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

O R D E R

% **07.05.2024**

1. We have heard Mr. Vipul Agrawal, learned counsel appearing in support of the appeal and Mr. Salil Aggarwal, learned senior counsel appearing for the respondent. The appeal came to be admitted by us in terms of an order dated 23 January 2024 and whereby the following question of law has been framed:

> "A. Whether on the facts and in the circumstances of the case and in law, the ITAT was Justified in deleting the penalty levied under Section 271C wherein disallowance of provision of liability of expenditure does not absolve the tax deductor of his statutory duty to deduct TDS under the Act?"

2. We note from a reading of the order passed by the Commissioner of Income Tax (Appeals) ["**CIT(A)**"] that categorical findings came to be returned to the effect that the Assessing Officer was not justified in imposing the penalties and that in any case the assessee had shown and established reasonable cause for non-

deduction of tax at source. The CIT(A) took note of the undisputed position which was that the expenses shown in the books of account of the assessee had been disallowed by the assessee itself under Section 40(a)(ia) of the Income Tax Act, 1961 and claimed in the subsequent years after deduction of tax at source. It is this view taken by the CIT(A) which has come to be affirmed by the Income Tax Appellate Tribunal ["**ITAT**"].

3. Apart from the aforesaid, we note that the ITAT has additionally taken into consideration the fact that the respondent had not been placed on notice under Section 201 of the Act and thus not even treated to be an assessee in default.

4. On an overall conspectus of the aforesaid, we find no justifiable ground to interfere with the view ultimately taken by the ITAT. The appeal fails and shall stand dismissed.

YASHWANT VARMA, J.

PURUSHAINDRA KUMAR KAURAV, J.

MAY 7, 2024/kk