$~47

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

\+ ITA 448/2025 CM APPL. 59813/2025 CM APPL. 59814/2025

PRINCIPAL COMMISSIONER OF INCOME TAX - 04

.....Appellant

Through: Mr. Abhishek Maratha, SSC with Mr. Apoorv Agarwal, JSC.

versus

JYESTHA INFRASTRUCTURE PVT LTD

.....Respondent

Through: None.

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO
HON'BLE MR. JUSTICE VINOD KUMAR

<u>O R D E R</u>

% **19.09.2025**

<u>CM APPL. 59813/2025, CM APPL. 59814/2025</u>

1. For the reasons stated in the applications, the delay of 1025 days in re-filing and 2 days in filing the appeal is condoned.

2. The applications are disposed of.

<u>CM APPL. 59815/2025 (Exemption)</u>

3. Exemption is allowed, subject to all just exceptions.

4. The application stands disposed of.

<u>ITA 448/2025</u>

5. The challenge in this appeal is to an order dated 08.06.2022 passed by the Income Tax Appellate Tribunal, Delhi (“ITAT”) in ITA No. 3496/Del/2019, which is an appeal filed by the appellant/revenue whereby

the ITAT has dismissed the appeal, by stating in paragraphs 5 & 6 as under:-

> *"5. During the course of hearing the Id DR could not cite any other proposition of law then one followed by the Id CIT(A). The Ld. AO made the addition placing reliance on the Circular No. 5/2014 of the CBDT dated 11.02.2014, and the Ld.CIT(A) deleted the addition. Hon'ble High Court of Delhi in the case of Pr. Commissioner of Income Tax Vs. IL &FS Energy Development Company Ltd. reported in 250 Taxman 0174 considered the Board Circular and held that the Circular cannot override the express provisions of section 14A r.w.Rule 8D of I.T.Rules. After considering various decisions, Hon'ble High Court of Delhi held that no disallowance u/s 14A of the Act was called for in case of no exempt income earned by the assessee, in the relevant assessment years.*
> *6. The grounds raised have no substance. Consequently, the appeal of the revenue is dismissed."*

6. The submission of Mr. Apoorv Agarwal by drawing our attention to the explanation to Section 14A of the Income Tax Act, 1961 ("Act") is that the explanation clarifies the provisions of the said section shall be deemed to have always applied in case where the income not forming part of the total income under this Act, has not been accrued or arisen or has not been received during the previous year relevant to an assessment year and the expenditure has been incurred during the said previous year in relation to such income not forming part of the total income.

7. He states though the said aspect has been clarified by the circular issued by the CBDT on 11.02.2014, the Tribunal by relying upon judgment of this Court in the case of ***Principle Commissioner of Income Tax vs.***

IL&FS Energy Development Company Ltd. : ITA No.520/2017, wherein it was held that the circular cannot override the express provision of Section 14A of the Act read with Rule 8D of the IT Rules, is clearly erroneous. In other words, in view of the explanation to Section 14A of the Act, the same should have been given effect.

8. Issue notice to the respondent through all permissible modes, returnable on 24.03.2026.

V. KAMESWAR RAO, J

VINOD KUMAR, J

SEPTEMBER 19, 2025/sr