

# Principal Commissioner Of Income Tax ... vs Il And Fs Energy Development Co Ltd on 30 May, 2023

**Author: Rajiv Shakdher**

**Bench: Rajiv Shakdher**

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IN THE HIGH COURT OF DELHI AT NEW DELHI

ITA 316/2023

ITA 317/2023

PRINCIPAL COMMISSIONER OF INCOME  
TAX DELHI 4

Through: Mr Abhishek Marath  
Counsel with Mr Ak  
Standing Counsel.

versus

IL AND FS ENERGY DEVELOPMENT  
CO LTD

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MR. JUSTICE GIRISH KATHPALIA

OR

% 30.05.2023 [Physical Hearing/Hybrid Hearing (as per request)] CM Appl.29613/2023 in ITA 316/2023 CM Appl.29614/2023 in ITA 317/2023

1. These are applications moved on behalf of the appellant/revenue seeking condonation of delay in re-filing the appeal. 1.1 According to the appellant/revenue, the period of delay involved is 285 days.

2. For the reasons given in the applications, the delay is condoned.

3. The applications are disposed of in the aforesaid terms.

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5. These appeals concern Assessment Year (AY) 2013-14 [ITA No.316/2023] and AY 2014-15 [ITA 317/2023].

6. Mr Abhishek Maratha, learned senior standing counsel, who appears on behalf of the appellant/revenue, says that the only question posed in the above appeals concerns deletion of

disallowance made under Section 14A of the Income Tax Act, 1961 [in short, "Act"].

7. Insofar as ITA 316/2023 is concerned, the disallowance was quantified at Rs.12,50,66,466/-.
8. Likewise, insofar as ITA 317/2023 is concerned, the deletion of disallowance was pegged at Rs.8,41,21,936/-.
9. To be noted, the finding of fact returned is, that during the period in issue in the above-captioned appeals, the respondent/assessee had not earned any exempt income.
10. There is no dispute, that this issue is covered by a judgment of the coordinate bench of this Court dated 02.09.2015 passed in ITA 749/2014 titled Cheminvest Limited v. Commissioner of Income Tax-VI and the judgment passed in Commissioner of Income-tax, Central 1, Chennai v. Chettinad Logistics (P.) Ltd. [2017] 80 taxmann.com 221 (Madras).
11. To be noted, one of us i.e., Rajiv Shakdher, J., was part of the bench This is a digitally signed order.

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12. Mr Maratha does not dispute the fact, that a special leave petition (SLP) was preferred against the said judgment, which was dismissed by the Supreme Court via order dated 02.07.2018, which is reported as [2018] 95 taxmann.com 250 (SC).

12.1 The order of the Supreme Court reads as follows:

"1. The Special Leave petition is dismissed on the ground of delay as well as on merits."

13. Therefore, according to us, no substantial question of law arises for our consideration.

14. These appeals are, accordingly, dismissed.

RAJIV SHAKDHER, J GIRISH KATHPALIA, J MAY 30, 2023/pmc Click here to check corrigendum, if any This is a digitally signed order.

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