

**IN THE HIGH COURT OF DELHI AT NEW DELHI 17.08.2009**

**Present: Ms. Prem L. Bansal with Ms. Anshul Sharma for the appellant.**

**ITA No. 548/2009**

**AXIS IT & T LTD.**

**Two questions of law are proposed to be raised in this appeal, namely :-**

**(a) Proportionate expenses allowable under Section 14A of the Income Tax Act, 1961:**

**Exemption in this behalf was claimed by the assessee under Section 10(33) of the Act in respect of dividend income of Rs.15,78,620/-. The AO disallowed to the extent of Rs.5,27,985/-. This decision was reversed by the CIT (A) and the order of CIT(A) has been confirmed by the ITAT on the ground that the AO disallowed the expenses to the aforesaid extent only on the basis of estimation. This would, therefore, clearly be a question of fact and no question of law arises.**

**(b) The second question relates to set off of income against the losses incurred under STP Unit under Section 10A of the Act. The ITAT has, inter alia, observed that after the decision of the CIT (A), the AO has himself allowed the set off in the subsequent assessment years.**

**Learned counsel for the appellant wants to find out as to whether the assessment in the subsequent year was under Section 143(1) or it was processed and orders passed under Section 143(3) of the Act.**

**For this purpose, we adjourn the matter to 7th September 2009.**

**A.K. SIKRI, J.**

**VALMIKI J. MEHTA, J.**

**August 17, 2009**