

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES: 'F', NEW DELHI**

**BEFORE SHRI R.S. SYAL, VICE PRESIDENT
AND SMT. BEENA A PILLAI, JUDICIAL MEMBER**

**ITA No. 5719/Del/2015
A.Y. 2011-12**

ACIT, Circle 9(2) New Delhi 110 002	<u>Vs.</u>	Fortis Hospotals Ltd. C/o Escorts Heart Institute & Research Centre Okhla Road New Delhi 110 025 PAN: AABCO2157P
(Appellant)		(Respondent)

Appellant by	Shri Atiq Ahmad, Sr.D.R
Respondent by	None
Date of Hearing	21 st November, 2017
Date of Pronouncement	29 th November, 2017

ORDER

PER BEENA A PILLAI, JUDICIAL MEMBER

The present appeal has been filed by revenue against order dated 10/07/15 passed by Ld.CIT(A)-3 New Delhi, for assessment year 2011-12, on following grounds of appeal:

- “1. On the facts and circumstances of the case and in law, the ld.CIT(A) has erred in deleting the addition of Rs.91,52,780/- made by the AO on account of disallowance u/s 14A r.w.Rule 8D of the Act.*
- 2. The appellant craves leave to add, alter or amend any ground of appeal raised above at the time of hearing.”*

2. Brief facts of the case are as under:

Assessee filed its return of income on 29/09/11 declaring total income of Rs.2,07,58,510/-. The return was processed under section 143(1) of the Act, and notice under section 143(2) along with questionnaire under section 142(1) of the Act was issued upon the assessee. On receipt of such notices representatives of assessee appeared and filed relevant details as called for by Ld. AO.

2.1. Ld.AO observed that assessee has shown a total amount of investment at Rs.22,59,32,106/-during the year under consideration.

2.2. The only issue raised by the revenue is against the deletion of Rs.91,52,780/- made by Ld. AO on account of disallowance under section 14A read with Rule 8D.

2.3. Ld. CIT (A) deleted the addition by observing as under:

“The various High Courts have uniformly held that no disallowance u/s 14A can be made if there is no exempt income and in that context over ruled the decision of Special Bench, New Delhi in the case of Cheminvest Ltd. vs. ITO reported in 317 ITR 86. In the case on hand, it is clear from the submissions filed during the appellate proceedings that there is no income which is exempt from the tax during the year. In view of this the addition made by the AO u/s 14A read with Rule 8D of the Income Tax Rules, 1962 is deleted and the AO is directed to modify the assessment order accordingly.”

3. We have perused the relevant material on record and find that this issue stands settled in favour of assessee by the Hon’ble judicial High Court in the case of *Cheminvest Ltd vs. CIT* reported in

(2015) 378 ITR 33, wherein it has been held that if there is no exempt income, there can be no question of making any disallowance under section 14 A. Similar view has also been taken by Hon'ble Jurisdictional High Court in case of *CIT vs. Holcim India Pvt. Ltd* vide order dated 05/09/14 in ITA No. 486/2014 and 299/2014.

4. In view of these binding precedents we do not find any infirmity in the addition being deleted as there is no exempt income which has been recorded by Ld. CIT (A) on the facts of the present case. Accordingly this ground raised by the revenue stands dismissed.

5. In the result appeal filed by the revenue stands dismissed.
Order pronounced in the open court on 29th November, 2017.

Sd/-

(R.S. SYAL)
Vice President

Sd/-

(BEENA A PILLAI)
Judicial Member

Dated: 29th November, 2017.

*mv

Copy of the Order forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR
6. Guard File

By Order

Asst. Registrar
ITAT, Delhi Benches, New Delhi

ITA 5719/Del/2015 Assessment Year 2011-12
Fortis Hospotals Ltd.

		Date	
1.	Dragon dictation	21.11.17	
2.	Draft placed before author	23.11.17	
3.	Draft proposed & placed before the second Member		
4.	Approved Draft comes to SrPS/PS		
5.	Kept for pronouncement on		
6.	File sent to Bench Clerk		
7.	Order uploaded		