

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

**BEFORE SHRI G.D.AGRAWAL, PRESIDENT
AND SMT. BEENA A PILLAI, JUDICIAL MEMBER**

**ITA No. 2619/Del/2016
A.Y. 2006-07**

ACIT, Circle 11(2) New Delhi	<u>Vs.</u>	HUDCO Ltd. Core 7A, Indian Habitate Centre Lodhi Road New Delhi 110 003 PAN: AAACH 0632 A
(Appellant)		(Respondent)

Appellant by	Smt.Paramita Tripathy, CIT, DR
Respondent by	Shri Gagan Kumar, Adv.
Date of Hearing	19 th December, 2017
Date of Pronouncement	21 st December, 2017

ORDER

PER BEENA A PILLAI, JUDICIAL MEMBER

The present appeal has been filed by revenue against order dated 01/02/16 passed by Ld.CIT(A)-16, New Delhi for assessment year 2006-07 on the following grounds of appeal:

“1. Whether on the facts & the circumstances of the case, Ld.CIT(A) was correct in deleting the disallowance of Rs.43.46 lakhs made on account u/s 14A r.w. Rule 8D?”

2. Whether the assessee who failed to develop nexus of interest free funds with investments can be granted relief merely on the basis that the method applied by the AO was not in Statute whereas no other reasonable method was available with the AO in arriving at the quantum of disallowance and the fact that the CIT(A) has not pointed out any defect in the method employed by the AO and has not given any other reasonable method.

3. 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 original return of income on 01/12/06 declaring income of Rs.3,72,96,37,039/-. The return was processed under section 143 (1) and the assessment was completed under section 143 (3) at total income of Rs.416,23,63,065/- vide assessment order dated 31/12/08.

2.1. Subsequently notice under section 148 of the Act was issued and served upon assessee as the Assessing Officer had information and reasons to believe that the income exceeding Rs. 1 lakh has escaped assessment on the grounds of disallowance under section 14 A and accrued interest on account of refund of advance to the property tax paid to MCD. The reassessment was completed under section 147 read with 143 (3) by computing the income in the hands of the assessee at Rs.575,08,65,378/-.

2.2. Aggrieved by the order of reassessment passed by Ld.AO assessee preferred appeal before the Ld.CIT(A) confirmed the disallowance made under section 14 A read with rule 8D only to an

extent of Rs. 30,000/- vis-a-vis the disallowance made by Ld. AO.
At Rs.164,58,87,920/-

2.3. Against order of Ld.CIT (A) revenue is in appeal before us for the reduction of disallowance made under section 14A read with rule 8D of the Act.

2.4. At the outset Ld.AR submitted that against the original assessment order passed by Ld. AO under section 143(3) dt. 31.12.2008, the appeal is pending before Ld.CIT (A). He submitted that the disallowance made by assessing officer in the original assessment order u/s 14A r.w.Rule 8D was to an extent of Rs.42,24,000/-. He requested for setting aside this issue to Ld.CIT(A) so that a consensus could be arrived at the quantum of disallowance under section 14 A read with rule 8D of the Act.

2.5. Ld. DR did not oppose to the request advanced by Ld.AR.

3. We have perused the relevant materials on record in the light of the submissions advanced by both the sides.

3.1. It is observed that the issue relating to disallowance under section 14A read with Rule 8D has been made by Ld. AO under the original assessment proceedings as well as in the reopening of assessment. It is also observed that the disallowance made under section 14A read with rule 8D under both these proceedings are different. As the appeal filed by assessee against the original assessment is pending before Ld.CIT(A), in the interest of natural justice, we find it appropriate to set aside this issue to the file of Ld. CIT(A) to adjudicate the disallowance under section 14A read with rule 8D in consensus.

3.2. At this juncture we make it amply clear that no opinion has been made in terms of validity of reassessment proceedings, as the issue has not been raised before us by assessee. Ld. CIT (A) is directed to decide the issue as per law.

3.3. Accordingly this ground raised by revenue stands allowed for statistical purposes.

4. In the result appeal filed by the revenue stands allowed for statistical purposes.

Order pronounced in the open court on 21st December, 2017.

Sd/-

(G.D.AGRAWAL)
President

Sd/-

(BEENA A PILLAI)
Judicial Member

Dated: 21st December, 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