

IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "B", NEW DELHI  
BEFORE SHRI H.S. SIDHU, JUDICIAL MEMBER  
AND  
SHRI T.S. KAPOOR, ACCOUNTANT MEMBER

I.T.A. No.6684/DEL/2016	
A.Y. : 2013-14	
ACIT, CENTRAL CIRCLE-17, ROOM NO. 103, FIRST FLOOR, HALL NO. 1, ARA CENTRE, E-2 JHANDEWALAN, NEW DELHI	VS. M/S COLLAGE GROUP INFRASTRUCTURE PVT. LTD., 56-58, COMMUNITY CENTRE, EAST OF KAILASH, NEW DELHI - 110 065 (PAN: AADCC0322P)
<b>(ASSESSEE)</b>	<b>(RESPONDENT)</b>

Revenue by : Ms. Ashima Neb, Sr. DR  
Assessee by : None

**ORDER**

**PER H.S. SIDHU : JM**

The Revenue has filed this Appeal against the impugned Order dated 27.10.2016 of the Ld. CIT(A)-27, New Delhi relevant to assessment year 2013-14.

2. The grounds raised in this Appeal read as under:-

1. *The Ld. CIT(A) has erred in deleting the disallowance u/s. 14A of Rs. 49,84,566/- without appreciating the facts of the case*

*which were considered by the AO while making the above disallowance.*

2. (a) *The order of the CIT(A) is erroneous and not tenable in law and on facts.*

*(b) The appellant craves leave to add, alter or amend any / all of the grounds of appeal before or during the course of hearing of the appeal.*

3. The brief facts of the case are that the assessee filed its Return of income at Rs. 1,93,54,370/-. The statutory notice u/s. 143(2) of the Income Tax Act, 1961 (hereinafter referred as the Act) was issued on 25.09.2014. Notice u/s. 142(1) of the Act alongwith questionnaire was issued on 21.10.2014. In response to the notices u/s. 143(2) and u/s. 142(1) of the Act, the A.R. of the Assessee attended the proceedings and filed reply and details. During the year assessee has declared income under the head "income from business or profession". During the course of assessment proceedings, the assessee company failed to disallow the expenses u/s. 14A of the I.T. Act, in its return of income and therefore, the assessee was requested to justify its claim in respect of large interest expenses relatable to exempt investment u/s. 14A of the Act. AO observed that assessee company failed to submit its satisfactory reply. Therefore, this working is made on the basis of available on records and it comes in view of Section 14A of the I.T. Act, 1961 read with Rule 8D of the I.T. Rules, 1962, an amount

equal to one-half per cent of the average of the value of investment, income from which does not or shall not form part of the total income shall be disallowed. Therefore, the amount of Rs. 49,84,566/- was disallowed u/s. 14A of the Act being one half per cent of Rs. 99,69,13,257/- and accordingly assessed the income at Rs. 2,44,99,900/- and passed the order u/s. 143(3) of the Act on 18.3.2016. Against the aforesaid assessment order, assessee appealed before the Ld. CIT(A)-27, New Delhi, who vide his impugned order dated 27.10.2016 has allowed the appeal of the assessee. Aggrieved with the order of the Ld. CIT(A), the Revenue is in appeal before the Tribunal.

4. Ld. DR relied upon the Order of the AO and reiterated the contentions raised in the grounds of appeal.

5. In this case, Notice of hearing to the assessee was sent by the Registered AD post, in spite of the same, assessee, nor its authorized representative appeared to prosecute the matter in dispute, nor filed any application for adjournment. Keeping in view the facts and circumstances of the present case and the issue involved in the present Appeal, we are of the view that no useful purpose would be served to issue notice again and again to the assessee, therefore, we are deciding the present appeal *ex parte qua* assessee, after hearing the Ld. DR and perusing the records.

6. We have heard the Ld. DR and perused the records, especially the order of the Ld. CIT(A). We find that assessee has furnished complete particulars of its actual income and no tax exempt income has been received by the assessee. We further note that the facts of the present case are identical to the case before the Hon'ble Andhra Pradesh High Court in the case of *Cheminvest Ltd. vs. CIT*, 2015-TIOL-2070-HC-Del wherein it has been held that whether there should be an actual receipt of income, which is not includible in the total income during the relevant

previous year, for the purpose of disallowing any expenditure u/s. 14A incurred in relation to the said income. Hence, the Ld. CIT(A) by respectfully following the above precedent, has rightly deleted the addition in dispute and allowed the appeal of the assessee, which does not need any interference on our part, hence, we uphold the order of the Ld. CIT(A) on the issue in dispute and reject the ground raised by the Revenue.

7. In the result, the appeal filed by the Revenue stands dismissed.

Order pronounced in the Open Court on 04/01/2018.

Sd/-

**[T.S. KAPOOR]**  
**ACCOUNTANT MEMBER**

Sd/-

**[H.S. SIDHU]**  
**JUDICIAL MEMBER**

*Date 04/01/2018*

**SRBHATNAGAR**

**Copy forwarded to: -**

1. Assessee -
2. Respondent -
3. CIT
4. CIT (A)
5. DR, ITAT

TRUE COPY

By Order,

Assistant Registrar, ITAT, Delhi Benches