

**IN THE INCOME TAX APPELLATE TRIBUNAL  
Hyderabad ' A ' Bench, Hyderabad**

**Before Smt. P. Madhavi Devi, Judicial Member  
AND  
Shri S.Rifaur Rahman, Accountant Member**

**ITA No.1798/Hyd/2017**  
(Assessment Year:2014-15)

Asstt. Commissioner of Income Tax,  
Central Circle 2(3)  
Hyderabad  
(Appellant) Vs M/s. Indur Avenues and  
Foods Private Limited  
Nizamabad  
PAN: AABCI0260Q  
(Respondent)

For Revenue : Smt. B. Vishnu Priya, DR  
For Assessee: Shri T. Chaitanya Kumar

Date of Hearing: 09.04.2018  
Date of Pronouncement: 11.04.2018

**ORDER**

**Per Smt. P. Madhavi Devi, J.M.**

This is Revenue's appeal for the A.Y 2014-15, against the order of the CIT(A)-5, Hyderabad, dated 31.08.2017. The Revenue has raised the following grounds of appeal:

*"1. Whether on the facts and circumstances of the case, and in law, the Id. CIT (A) erred in deleting the disallowance made u/s 14A r.w.r 8D(2)(ii) without appreciating that the AO has rightly made disallowance having regard to the provisions of the Act?"*

*2 Whether on the facts and circumstances of the case, and in law, the Id. CIT (A) ought to have confirmed the disallowance made u/s 14A rwr 8D(2)(ji) also when he has confirmed the disallowance made u/s 14A rwr 8D(2)(iii)?"*

*3. Whether on the facts and circumstances of the case, and in law, the Id. CIT (A) erred in deleting the disallowance made u/s 14A rwr 8D(2)(ii) without appreciating the fact that the method for determining*

*amount of disallowance u/s 14A as given in Rule 8D(2)(ii) not only includes the investment, income from which DOES NOT form part of the total income but also the investment, income from which SHALL NOT form part of the total income?*

*4. Whether on the facts and circumstances of the case, and in law, the Id. CIT (A) erred in holding that the CBDT Circular cannot override the express provisions of section 14A rwr 8D without appreciating that the CBDT in exercise of its powers under section 119 of the Act has clarified that Rule BD read with section 14A of the Act provides for disallowance of the expenditure even where taxpayer in a particular year has not earned any exempt income which does not amount to overriding of any provision”.*

2. Having regard to the rival contentions and the material on record, we find that the CIT (A) has deleted the disallowance made by the AO u/s 14A r.w.r 8D(2)(iii). The CIT (A) deleted the disallowance on the ground that there is no exempt income earned by the assessee. We find that this issue is covered in favour of the assessee by the decision of the Hon'ble Delhi High Court in the case of Cheminvest Ltd, reported in (2015) 378 ITR 33 (Del.) and the Hon'ble Madras High Court in the case of Redington Co. in T.C.A.No.520 of 2016 dated 8.11.2016. Since the order of the CIT (A) is in consonance with the precedents of the issue, we see no reason to interfere with the order of the CIT (A). Respectfully following the orders of the Hon'ble Delhi High Court and Madras High Court (Supra), the Revenue's appeal is dismissed.

3. In the result, Revenue's appeal is dismissed.

Order pronounced in the Open Court on 11<sup>th</sup> April, 2018.

**Sd/-**  
**(S.Rifaur Rahman)**  
**Accountant Member**

**Sd/-**  
**(P. Madhavi Devi)**  
**Judicial Member**

Hyderabad, dated 11<sup>th</sup> April 2018.

**Vinodan/sps**

Copy to:

- 1 ACIT, Central Circle 2(3) 6<sup>th</sup> Floor, Aayakar Bhavan,  
Basheerbagh, Hyderabad
- 2 M/s. Indur Avenues & Foods Pvt Ltd, H.No.11-1-1941/2,  
Kanteshwar Road, Gangasthan, Nizamabad
- 3 CIT (A)-5, Hyderabad
- 4 Pr. CIT – 5, Hyderabad
- 5 The DR, ITAT Hyderabad
- 6 Guard File

*By Order*