

**IN THE INCOME TAX APPELLATE TRIBUNAL  
HYDERABAD BENCH "A", HYDERABAD**

**BEFORE SMT. P. MADHAVI DEVI, JUDICIAL MEMBER  
AND SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER**

**ITA No. 325/Hyd/2017  
Assessment Year: 2012-13**

Usha Conductors Pvt Ltd., vs. Dy. CIT,  
Hyderabad. Circle -17(2),  
Hyderabad.

PAN – AAACU2568C  
(Applicant)

(Respondent)

Assessee by : Shri S. Rama Rao  
Revenue by : Shri R.S Arvindhakshan

Date of hearing : 20-08-2018

Date of pronouncement : 24-08-2018

**ORDER**

**PER P. MADHAVI DEVI, J.M.:**

This is assessee's appeal for the A.Y 2012-13. In this appeal the assessee is aggrieved by the order of the CIT(A)-5, Hyderabad dated 30.11.2016 confirming the disallowance made by the A.O u/s 14A of the IT Act.

2. At the outset, it is seen that there is a delay of 09 days in filing of the appeal before us and the assessee has filed an application for condonation of delay along with an affidavit explaining the reasons for the delay. Being satisfied by the reasons given in the affidavit for the delay, we are inclined to condone the delay and proceed to dispose of the appeal on merits.

3. The assessee has raised the following grounds of appeal:

*“1. The order of the Ld. CIT(A) is erroneous both on facts and law.*

*2. The Ld. CIT(A) erred in holding that the previous u/s 14A of the IT Act are applicable to the facts of the case and further erred in confirming the addition made of Rs. 5,55,619/- u/s 14A of the IT Act. The Ld. CIT(A) ought to have considered the fact that no income arose from the investments made by the appellant and the appellant’s own capital was sufficient for making the investments.*

*3. The Ld. CIT(A) ought to have held that the provisions of Sec. 14A have no application as the appellant was in possession of sufficient funds of its own for investments and that no income arose from such investments.*

*4. Any other ground or grounds that may be urged at the time of hearing.*

4. From the grounds of appeal itself, it is seen that the assessee has not earned any income which is exempt from tax and therefore the assessee’s case is that Sec. 14A has no application. We find that the A.O has made disallowance u/s 14A of the IT Act r.w.r 8D of the IT Rules even though the assessee has not earned any exempt income during the year from the investments made by the assessee. The Hon’ble Delhi High Court in the case of Cheminvest Ltd., Vs. ITO [2009] 121 ITD 318 (Delhi) has held that where there is no exempt income earned by the assessee, no disallowance u/s 14A of the IT Act shall be made. Respectfully following the same, we hold that the disallowance u/s 14A of the IT Act is not sustainable as there is no exempt income earned from the investments during the relevant assessment year. In view of the same, the assessee’s appeal is allowed.

5. In the result, appeal filed by the Assessee is allowed.

Pronounced in the open court on 24<sup>th</sup> August, 2018.

Sd/-  
**(INTURI RAMA RAO)**  
**ACCOUNTANT MEMBER**

Sd/-  
**(P. MADHAVI DEVI)**  
**JUDICIAL MEMBER**

Hyderabad, Dated: 24<sup>th</sup> August, 2018

*KRK*

- 1) *Usha Conductors Pvt., Ltd., 5035/250 & 251 (Old No. 5-36/225 (A&B), Prashanthi Nagar, Kukatpally, Hyderabad – 500 072/-*
- 2) *DCIT, Circle 14(2), Hyderabad.*
- 3) *CIT(A)-5, Hyderabad.*
- 4) *Pr.CIT-5, Hyderabad.*
- 5) *The Departmental Representative, I.T.A.T., Hyderabad.*
- 6) *Guard File.*