

**आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ 'A' अहमदाबाद ।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**“A” BENCH, AHMEDABAD**

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER &**  
**SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER**

आयकर अपील सं./I.T.A. No. 1504/Ahd/2018  
(निर्धारण वर्ष / Assessment Year : 2015-16)

<b>Deputy Commissioner of Income-tax</b> Anand Circle, 204, 3 <sup>rd</sup> Floor, S. P. Patel Complex, Near Old C. K. Hall, Mayfair Road, Anand - 388001	<b>बनाम/ Vs.</b>	<b>M/s. Anupam Industries Limited</b> 138, GIDC Estate, Vithal Udyognagar, Anand-388121
<b>स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AABCA9602Q</b>		
<b>(अपीलार्थी /Appellant)</b>	..	<b>(प्रत्यर्थी / Respondent)</b>

अपीलार्थी ओर से / Appellant by :	Shri Satish Solanki, Sr.D.R.
प्रत्यर्थी की ओर से/Respondent by :	Shri M. K. Patel, A.R.

सुनवाई की तारीख / Date of Hearing	19/09/2019
घोषणा की तारीख /Date of Pronouncement	19/09/2019

**आदेश/ORDER**

**PER PRADIP KUMAR KEDIA - AM:**

The captioned appeal has been filed at the instance of the Revenue against the order of the Commissioner of Income Tax (Appeals)-4, Vadodara ('CIT(A)' in short), dated 09.03.2018 arising in the penalty order dated 18.12.2017 passed by the Assessing Officer

(AO) under s. 143(3) of the Income Tax Act, 1961 (the Act); concerning A.Y. 2015-16.

2. As per its grounds of appeal, the Revenue has challenged the action of the CIT(A) for granting relief out of disallowance of expenses under s.14A read with Rule 8D of the Income Tax Rules.

3. We have heard the rival submission on the issue. It was pointed out on behalf of the assessee that the assessee has not earned any exempt income during the year under review. It is the case of the assessee that in the absence of any exempt income the provisions of Section 14A of the Act could not be invoked. We find merit in the aforesaid plea of the assessee. Various Courts have held that Section 14A of the Act disallowance cannot be kicked when there was no exempt income earned by the assessee as is the case in the present appeals. Hon'ble Delhi High Court in PCIT vs IL&FS Energy Development Company Ltd. (2017) 84 Taxman.com 186(Delhi) and the Hon'ble Madras High Court in CIT v. Chettinad Logistics (P.) Limited (2017) 80 taxmann.com 221(Madras) have expressed a clear disagreement with CBDT Circular and held that where there is no exempt income in relevant year there cannot be a disallowance of expenditure under s.14A of the Act. Similar proposition has been laid down by the Hon'ble Gujarat High Court in the case of Corrttech Energy (P.) Ltd (2014) 45 taxmann.com. 116 (Guj) and Pr.CIT vs. India Gelatine and Chemicals Ltd. (2016) 66 taxmann.com 356 (Guj). The aforesaid judicial fiat was reiterated by the Hon'ble Delhi High Court in the case of Joint Investments Pvt. Ltd. vs. CIT reported in 372 ITR 692 (Delhi) wherein Hon'ble Delhi High Court has categorically ruled that disallowance under s.14A of the Act cannot exceed the amount of tax exempt income. Notably, the SLP filed against the decision of Hon'ble Madras High Court in Chettinad

Logistics (supra) has been dismissed by Hon'ble Supreme Court in CIT vs. Chettinad Logistics (P.) Ltd. (2018) 95 taxmann.com 250 (SC). Hence, in conformity with the judicial precedents, we find substantial merit in the conclusion drawn by the CIT(A) which essentially holds that Section 14A of the Act can be triggered only if assessee seeks to square off expenditure against the income which does not form part of total income under the Act and Section 14A of the Act cannot be invoked where no exempt income was earned in the relevant assessment years. Thus, without going into other aspect of contentions, in consonance with the judicial precedents, we do not see any infirmity in the conclusion drawn by the CIT(A) for non-applicability of Section 14A of the Act in the facts of the case.

4. In the result, appeal of the Revenue is dismissed.

**This Order pronounced in Open Court on 19/09/2019**

Sd/-  
(KUL BHARAT)  
JUDICIAL MEMBER  
Ahmedabad: Dated 19/09/2019

Sd/-  
(PRADIP KUMAR KEDIA)  
ACCOUNTANT MEMBER

*True Copy*

*S. K. SINHA*

**आदेश की प्रतिलिपि अग्रहित / Copy of Order Forwarded to:-**

1. राजस्व / Revenue
2. आवेदक / Assessee
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त- अपील / CIT (A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद /  
DR, ITAT, Ahmedabad
6. गार्ड फाइल / Guard file.

By order/आदेश से,

उप/सहायक पंजीकार  
आयकर अपीलीय अधिकरण, अहमदाबाद ।