

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'A', NEW DELHI**

**Before Ms. Sushma Chowla, Judicial Member**

**Dr. B. R. R. Kumar, Accountant Member**

**ITA No. 5737/Del./2017 : Asstt. Year : 2012-13**

JCIT, Special Range-1, New Delhi-110002	Vs	ADM Agro Inds. India Pvt. Ltd., 807, New Delhi House, Barakhamba Road, Connaught Place, New Delhi-110001
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>
<b>PAN No. AAHCA6963E</b>		

**Assessee by : Sh. Salil Kapoor, Adv.**

**Revenue by : Sh. Sanjay Goyal, CIT DR &  
Sh. Sanjog Kapoor, Sr. DR**

**Date of Hearing: 01.10.2019**

**Date of Pronouncement: 05.11.2019**

**ORDER**

**Per Dr. B. R. R. Kumar, Accountant Member:**

The present appeal has been filed by the revenue against the order of the Id. CIT(A)-32, New Delhi dated 27.06.2017.

2. Following ground has been raised by the revenue:

*"1. On the facts and in the circumstances of the case, the Ld. CIT(A) has erred in deleting the disallowance of Rs.1,09,754/- made by the AO on account of employee's contribution to PF deposited beyond the ude date u/s 2(24)(x) r.w. section 36(1)(va) of the Income Tax Act, 1961.*

*2. On the facts and in the circumstances of the cases, the Id. CIT (A) has erred in deleting the disallowance*

*of Rs.1,76,88,619/- made by the AO u/s 14A of the Income-tax Act, 1961 r.w.r 8D of Income-tax Rules."*

3. Heard the arguments of both the parties and perused the material available on record.

4. From the records, it is found that the employee contribution to PF has been deposited before filing of the return. The Assessing Officer made disallowance of Rs. 109574/- being the employees contribution towards the PF deposited after the due date u/s 2(24)(x) read with section 36(1)(va) of the I.T. Act, 1961. It was argued by the Ld. AR that the amounts have already been deposited before filing of the Income Tax Return on 9.11.2011 and 05.04.2012. Since, the amounts have already been paid before filing of the return as provided under section 36(1)(va) the Income Tax Act and keeping in view the judgment of Hon'ble High Court in the case of CIT Vs AIMLI Ltd. 321 ITR 508, wherein the Hon'ble High Court allowed the deduction of payment of employees contribution towards the PF before filing of the return, the appeal of the revenue is hereby dismissed.

5. Ground No. 2 deals with disallowance of Rs. 176,88,619/- made by the Assessing Officer u/s 14 of the Income Tax Act read with Rule 8D of the Income Tax Rules. The average value of the investments determined by the Assessing Officer was Rs. 81,40,52,960/- and average value of the assets Rs. 4,21,36,40,419/-. It was argued by the Ld. AR that no exempt income has been earned by the assessee during the year. The revenue has not disputed the factual position. Hence, keeping in view the judgment of Hon'ble Delhi High Court in the case Cheminvest Ltd. Vs CIT in ITA No. 749/2014 dated 02.09.2015, we hereby decline to interfere with the order of the Id. CIT (A) in deleting the addition made u/s 14A.

6. In the result, the appeal of the revenue is dismissed.

Order Pronounced in the Open Court on 05/11/2019

Sd/-

**(Sushma Chowla)**  
**Judicial Member**

**Dated: 05/11/2019**

\*Subodh\*

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

Sd/-

**(Dr. B. R. R. Kumar)**  
**Accountant Member**

**ASSISTANT REGISTRAR**