INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "A": NEW DELHI
BEFORE SHRI H.S.SIDHU, JUDICIAL MEMBER
AND
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER
(Through Video Conferencing)

ITA No. 7185/Del/2017
(Assessment Year: 2013-14)

ACIT, Central Circle-20, New Delhi	Vs.	Ambience Pvt. Ltd, L-4, Green Park Extn, New Delhi PAN: AAACA0541K
(Appellant)		(Respondent)

Revenue by :	Shri Vipul Kashyap, Sr. DR
Assessee by:	Shri Raj Kumar Gupta, CA Shri Sumit Goel, CA
Date of Hearing	15/10/2020
Date of pronouncement	19/10/2020

O R D E R

PER PRASHANT MAHARISHI, A. M.

1. This is an appeal filed by the ld ACIT, Central Circle 20, New Delhi (ld AO) for AY 2013-14 against the order of the ld CIT(A)-27, New Delhi dated 19.09.2017 raising the solitary ground of against deletion of disallowance u/s 14A of the Act as under:-

"*1. That the ld CIT(A) erred in law and on facts in deleting the addition of Rs. 24368923/- made on account of disallowance of expenses u/s 14A without appreciating the facts and circumstances of the case that the assessee is not able to bifurcate the expenses incurred on exempt income and taxable income. Also assessee is not maintaining separate a/c for exempt income and taxable income."*

2. We have heard the rival parties and written submission put before us by the ld AR.

3. Brief facts of the case that assessee is a company. It filed its return of income on 30.09.2013 at Rs. 514871820/-. The case was selected for scrutiny. The assessment order was passed u/s 143(3) of the Act on 29.02.2016 wherein the disallowances of Rs. 24368923/- was made u/s 14A of the Act. Reason for disallowances is that the assessee has shown

investment of Rs. 509.29 crores and no expenditure is disallowed u/s 14A of the Act. The ld AO computed the disallowances by applying provisions of section 14A read with Rule 8D and disallowed a sum of Rs. 24368923/- under Rule 8D(2)(iii) of the Act. Assessment was made at Rs. 539240743/-.

4. On appeal, the LD CIT (A) noted that assessee does not have any exempt income and therefore, he deleted the disallowance following decision of Hon'ble Delhi High Court in Cheminvest Ltd vs. CIT 378 ITR 33.

5. The Hon'ble Delhi High Court has held that where there is no exempt income claimed by the assessee there cannot be any disallowance u/s 14A of the Act.

6. The ld DR could not show that the assessee has claimed any exempt income for its computation of total income. Against this ld AR has shown us the computation of total income of the assessee along with annual accounts to show that there is no exempt income shown by the assessee. In view of the facts that assessee does not have any exempt income, consequently, there can be no disallowance u/s 14A of the Act. Accordingly, we do not find any infirmity in order of the ld CIT (A). We confirm the same and dismissed solitary ground of appeal of the ld AO.

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

Order pronounced in the open court on 19/10/2020.

-Sd/-	-Sd/-
(H.S.SIDHU)	(PRASHANT MAHARISHI)
JUDICIAL MEMBER	ACCOUNTANT MEMBER

Dated: 19/10/2020
A K Keot

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1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi