

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'C' NEW DELHI
BEFORE SHRI R.K. PANDA, ACCOUNTANT MEMBER
AND
SHRI K. NARASIMHA CHARY, JUDICIAL MEMBER**

**ITA No. 7050/Del/2017
Assessment Year: 2013-14**

Holtec Consulting Pvt. Ltd., vs. DCIT, Circle 11(1),
C Block 01-0103, Imperial Tower, New Delhi.
Community Centre, Naraina Vihar,
New Delhi

PAN : AAACH0031M
(Appellant)

(Respondent)

Appellant by : Sh. Atal Ninawal, CA
Respondent by: Ms. Sunita Singh, CIT/DR

Date of hearing: 23.02.2021
Date of order : 23.02.2021

ORDER

PER K. NARASIMHA CHARY, J.M.

Challenging the order dated 28.09.2017 passed by the learned Commissioner of Income Tax (Appeals)-18, New Delhi ("the Ld. CIT(A"), for the assessment year 2013-14, Holtec Consulting Pvt. Ltd. ("the assessee"), preferred this appeal.

2. Brief facts are that the assessee is engaged in the business of Technical and Management Consultancy. For the assessment year 2013-14, they filed their return of income on 29.11.2013 declaring an income of Rs.29,96,84,870/-. Assessment u/s. 143(3) of the Income-tax Act ("the

Act” for short) was, however, complete by order dated 26.02.2016 determining income at Rs.33,09,42,326/- by making additions of Rs.2,22,74,011/- on account of disallowance of payments made to director and a sum of Rs.89,83,445/- u/s. 14 of the Act read with Rule 8D of the Income-tax Rules.

3. When the assessee preferred appeal, by way of impugned order, learned CIT(A) granted relief to the assessee in respect of disallowance of Rs.2,22,74,011/-, but confirmed the addition made u/s. 14A read with Rule 8D. The assessee is, therefore, aggrieved by such an order and preferred this appeal stating that such a disallowance by invoking section 14A read with Rule 8D is not sustainable.

4. Learned AR submitted that the authorities below failed to analyse the nature of investment as to whether the investment is yielding taxable income, exempt income or no income and that the satisfaction regarding the incorrect amount disallowed by the assessee was not recorded by the Assessing Officer. He, however, submitted that facts & circumstances and questions of law involved this year are identical to the ones involved for the assessment years 2009-10, 2010-11 and 2011-12, in which years, a coordinate Bench of this Tribunal in ITA No. 4563/Del/2012 for assessment year 2009-10, 1057/Del/2014 for A.Y. 2010-11 and 2148/Del/2015 for A.Y. 2011-12, restored the issue back to the file of Assessing Officer to consider the issue afresh in the light of observations made in ITA No. 4563/Del/2012 for assessment year 2009-10. Learned AR prayed that this issue for this year may also be restored back to the file of Assessing Officer to consider the same in consonance with the view to be taken for assessment year 2009-10.

5. In view of the admitted position that the facts and circumstances involved for this year are identical to ones involved in assessment years 2009-10, 2010-11 and 2011-12, in which the issue was restored to the file of Assessing Officer to take a fresh view in the light of directions given in ITA No. 4563/Del/2012 for assessment year 2009-10, we are of the considered opinion that the request of the assessee can be accepted. We accordingly, while setting aside the impugned findings of the authorities below, restore the issue to the file of Assessing Officer to decide the same in the light of the view to be taken for earlier assessment years.

6. In the result, appeal of the assessee is allowed for statistical purposes.

Order was announced on conclusion of Virtual Hearing in the presence of both the parties on this the 23rd day of February, 2021.

Sd/-
(R.K. PANDA)
ACCOUNTANT MEMBER

Sd/-
(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Dated: 23/02/2021
'aks'