

**IN THE INCOME TAX APPELLATE TRIBUNAL  
HYDERABAD BENCH 'B', HYDERABAD**

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER  
AND SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER**

ITA No. 2240/H/2018 Assessment Year: 2015-16		
Dy. Commissioner of Income-tax, Circle - 3(2), Hyderabad	Vs.	Soma Highways Pvt. Ltd., Hyderabad.  PAN - AANCS 2909 Q
(Appellants)		(Respondent)
Assessee by:		Shri Rohit Mujumdar
Revenue by:		Shri Mohd. Afzal
Date of hearing:		16/03/2021
Date of pronouncement:		10/05/2021

**ORDER**

**PER L.P. SAHU, AM:**

This appeal filed by the Revenue for AY 2015-16 is directed against the CIT(A) - 3, Hyderabad's order, dated 18/09/2018 involving proceedings u/s 143(3) of the Income Tax Act, 1961 ; in short "the Act".

2. The revenue has raised 5 grounds of appeal, the sum and substance of which are against the action of the CIT(A) in deleting the disallowance made by the AO u/s 14A of the Act.

3. Briefly the facts of the case are that the assessee engaged in the infrastructure business filed its return of income for the AY 2015-16 on 27/09/2015 declaring a total loss of Rs. 3,64,320,313/-. Subsequently, the case was selected for scrutiny under CASS and accordingly, statutory notices were issued to the assessee, in response to which, the AR of the assessee filed the required information. After considering the information, the AO completed the assessment u/s 143(3) of the Act by assessing the total loss at Nil by making the addition of Rs. 3,64,20,313/- u/s 14A of the Act.

4. When the assessee preferred an appeal before the CIT(A), the CIT(A) allowed the appeal of the assessee, against which, the revenue is in appeal before the ITAT.

5. We have considered the rival submissions and perused the material on record as well as gone through the orders of revenue authorities. It is settled position of law that the provisions of section 14A can be applied to quantify the expenses in relation to exempt income. Since the exempt income is Nil, section 14A will not apply. *The Hon'ble Delhi High Court in the case of Cheminvest Ltd., reported in (2015) 378 ITR 33 (Del.) has held that section 14A will not apply where no exempt income is received or receivable during the relevant assessment year.*

5.1 In the case under consideration, we find that the investments were made purely on account of commercial necessity and as no exempt income was earned from the investment so made, the provisions of Section 14A will not be applicable to the case of assessee. Therefore, following the said decision of Hon'ble Delhi High Court in the case of *Cheminvest Ltd., (supra)*, we find no infirmity in the order of the CIT(A) and accordingly we uphold the same and dismiss the grounds raised by the revenue.

6. In the result, appeal of the revenue is dismissed.  
Pronounced in the open court on 10<sup>th</sup> May, 2021.

Sd/-  
(S.S. GODARA)  
JUDICIAL MEMBER

Sd/-  
(L.P. SAHU)  
ACCOUNTANT MEMBER

Hyderabad, dated 10<sup>th</sup> May, 2021

kv

1	<i>DCIT, Room No.713, 7<sup>th</sup> Floor, Signature Towers, Opp. Botanical Gardens, Kondapur, Hyderabad.</i>
2	<i>Soma Highways Pvt. Ltd., 14, Avenue-4, Banjara Hills, Hyderabad - 500 034.</i>
3	<i>CIT(A) - 3, Hyderabad.</i>
4	<i>Pr. CIT - 3, Hyderabad.</i>
5	<i>ITAT, DR, Hyderabad.</i>
6	<i>Guard File.</i>