

**IN THE INCOME TAX APPELLATE TRIBUNAL,
DELHI BENCH: 'SMC-1' NEW DELHI**

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER
AND
SHRI O.P. KANT, ACCOUNTANT MEMBER
[Through Video Conferencing]**

ITA No.241/Del/2021
Assessment Year: 2017-18

M/s. Premier Udyog Ltd., C/o- Raj Kumar & Associates, CA, L-7A (LGF), Sough Extension, Part-II, New Delhi	Vs.	ACIT, Circle -20(1), New Delhi
PAN :AADCP4119K		
(Appellant)		(Respondent)

Appellant by	Sh. J.P. Sharma, CA
Respondent by	Sh. R.K. Gupta, Sr. DR

Date of hearing	01.07.2021
Date of pronouncement	09.07.2021

ORDER

PER O.P. KANT, AM:

This appeal by the assessee is directed against order dated 03/03/2021 passed by the Commissioner of Income-tax (Appeals), National Faceless Appeal Centre, Delhi [in short 'the Ld. CIT(A)'] for assessment year 2017-18 raising following grounds:

1. *That under the facts and circumstances, in the absence of exempt income A.O. erred in law in making disallowance u/s 14A r/w R. 8D.*
2. *That under the facts and circumstances, in the absence of recording of satisfaction, A.O. erred in law in making disallowance u/s 14A r/w R. 8D.*
3. *That under the facts and circumstances, in the absence of any exempted income, the self disallowance of Rs.20,322/- also needs to be deleted.*

2. Briefly stated facts of the case are that the assessee is a Non Banking Financial Company (NBFC) and e-filed its return of income for the year under consideration on 07/11/2017 declaring total income of Rs.36,35,540/-. The return of income filed by the assessee was selected for scrutiny assessment and statutory notices under the Income-tax Act, 1961 (in short 'the Act') were issued and complied with. In the assessment completed under section 143(3) of the Act, the Assessing Officer disallowed a sum of ₹ 2,22,700/- in terms of section 14A of the Act. The Ld. CIT(A) also upheld the disallowance. Aggrieved, the assessee is in appeal before the Tribunal raising the grounds as reproduced above.

3. Both the parties appeared before us through Video Conferencing facility and filed documents electronically.

4. The learned Counsel of the assessee supporting ground No. 1 & 2 of the appeal submitted that there being no exempted income, no disallowance can be made in the hands of the assessee following the decision of the Hon'ble Delhi High Court in the case of *Cheminvest Limited vs. Commissioner of Income Tax-VI*, (2015) 378 ITR 33.

5. The Learned DR, on the other hand, relied on the order of the lower authorities.

6. We have heard rival submission of the parties and perused the relevant material on record. In the case, the Assessing Officer observed investment by the assessee in shares and thus invoking section 14A made disallowance for expenses towards earning exempt income at the rate 1% of annual average of monthly average opening and closing balances of value of investment, which was worked out to ₹ 2,43,022/- and after subtracting the suo motu disallowance of ₹ 20,322/-, made disallowance of ₹ 2,22,700/-. The Ld. CIT(A) rejected the objection of the assessee against non-recording of dissatisfaction on the accounts of the assessee and upheld the disallowance. Before us, the Learned Counsel of the assessee has submitted that there was no exempted income earned during the year in the case of the assessee. This fact also get confirmed from the assessment order, wherein the Assessing Officer has held that disallowance of the expenditure has to be made even in a particular year the assessee has not earned any exempted income. This fact is also verified from financial statements filed by the assessee before us. We find that the Hon'ble Delhi High Court in the case of *Cheminvest Limited (Supra)*, held that no disallowance under section 14A is required where there is no exempted income earned by the assessee during the year. Respectfully, following the finding of the Hon'ble Delhi High Court (supra), no disallowance can be sustained in the case of the assessee. Accordingly, the disallowance made by the Assessing Officer and sustained by the Learned CIT(A) is deleted.

6.1 The ground 1 and 2 of the appeal of the assessee are accordingly allowed. The ground No. 3 was not pressed by the assessee before us and therefore it is dismissed as infructuous.

7. In the result, the appeal of the assessee is allowed partly.

Order pronounced in the open court on 9th July, 2021.

**Sd/-
(KUL BHARAT)
JUDICIAL MEMBER**

**Sd/-
(O.P. KANT)
ACCOUNTANT MEMBER**

Dated: 9th July, 2021.

RK/-(DTPDC)

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi