

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI "A" BENCH: NEW DELHI**

(THROUGH VIDEO CONFERENCING)

**BEFORE SHRI G.S. PANNU, HON'BLE PRESIDENT &
SHRI KUL BHARAT, JUDICIAL MEMBER**

**ITA No.4141/Del/2017
Assessment Year : 2013-14**

ACIT, Circle-4(2), Room No.398D, C.R. Building, New Delhi	vs	M/s Bharat Hotels Limited, Barakhamba lane, New Delhi-110001
		PAN-AAACB1298E
APPELLANT		RESPONDENT

Appellant by	Mrs. Alka Gautam, Sr. DR
Respondent by	SH. R. L. Garg, CA
Date of Hearing	13.10.2021
Date of Pronouncement	25.10.2021

ORDER

PER KUL BHARAT, JM :

This appeal filed by the Revenue is directed against the order dated 31.03.2017 of the learned CIT(A)-2, New Delhi, relating to Assessment Year 2013-14. The Revenue has raised following grounds of appeal:-

- 1. Whether on the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in deleting the disallowance made u/s 14A of the IT Act amounting to Rs.7,24,23,249/-.*
- 2. Whether on the facts and in the circumstances of the case and in law, the ld. CIT(A) has erred in law in deleting the disallowance of depreciation on World Trade Centre and World Trade Tower amounting to Rs.45,577/-*

2. The facts, in brief, are that in this case, the original return of income declaring loss of Rs.122,44,76,054/- was filed on 15.11.2013. Thereafter, the return of income was revised at the same loss. The case was selected for scrutiny assessment. The Assessing Officer while framing the assessment disallowed the expenditure related to amalgamation of one of its subsidiary namely M/s Udaipur Hotels Limited with the assessee amounting to Rs.13,97,226/-, disallowance on depreciation relating to World Trade Centre and World Trade Tower amounting to Rs.45,577/- and disallowance made invoking the provisions of section 14A of the Act of Rs.7,24,23,249/-.

3. Aggrieved against this, the assessee filed appeal before the Ld.CIT(A), who deleted the disallowance of depreciation and disallowance on account of provisions of section 14A of the Act.

4. Aggrieved against the impugned order of the Ld. CIT(A), the Revenue is in appeal before the Tribunal.

5. At the outset, the Ld. counsel for the assessee pointed out that the issues as raised by the Revenue in the present appeal are covered by the decision of the Tribunal in assessee's own case for the Assessment Year 2009-10, 2010-11, 2011-12 and 2012-13.

Further, it is submitted that the appeal filed by Revenue have been dismissed by the Hon'ble Delhi High Court.

6. On the contrary, the Ld. Sr. DR opposed the submissions of the assessee, however, she fairly conceded that the issues are covered against the Revenue by the decision of the Tribunal and the Hon'ble Delhi High Court. The Ld. Sr. DR, however strongly relied upon the assessment order.

7. We have heard the rival submissions, perused the material available on record and gone through the orders of the authorities below. Apropos to Ground No.1, Ld. Counsel for the assessee has brought to our notice the order of Hon'ble Delhi High Court rendered in *ITA No.535 & 536/Del/2015*, both titled as *PCIT vs Bharat Hotels Ltd. dated 11.09.2015* wherein Hon'ble Delhi High Court has decided the issues against the Revenue by observing as under:-

2. *“As far as the issue relating to depreciation being allowed to the Assessee in respect of the World Trade Centre and the World Trade Tower buildings under Section 32 of the Act, the question stands answered against the Revenue by an order dated 24th July 2015 passed by this Court in ITA No.69/2000 (CIT vs Bharat Hotels Ltd.).*

3. *The other issue in these appeals is whether the addition made by the Assessing Officer ("Assessing Officer") invoking Section 14A of the Act read with Rule 8D or the Income Tax Rules, 1962 was justified? In this regard, the ITAT has in the impugned order noted the following "undisputed facts":*

"(i) The assessee did not receive dividend during the year under Consideration.

(ii) The investment was made by Assessee Company in subsidiary companies for strategic purposes.

(iii) The investment during the year was made In u subsidiary company which was situated outside India and, therefore the dividend income if any received from foreign companies was not exempt."

4. *The ITAT has rightly followed the decision of this Court in CIT v Holcim India Pvt. Ltd. (2014) 272 CTR (Del) 282 and held that since no exempt dividend income was earned the question of invoking Section 14 A of the Act read with Rule 8D did not arise.*

5. *The Revenue has not been able to persuade this Court that the above tactual determination is perverse or that in the facts and circumstances of the decision of this Court in CIT v. Holcim Pvt. Ltd. (supra) would not apply."*

8. Facts are identical as were in the Assessment Years 2009-10 & 2010-11. The Revenue has not brought to our notice any change in the facts and circumstances of the case and any other contrary

binding precedents to our notice. Therefore, respectfully following the decision of the Jurisdictional Delhi High Court in ITA No.50/2018(supra), we do not see any reason to interfere in the finding of Ld.CIT(A), the same is hereby affirmed. Thus, grounds raised by the Revenue are rejected.

9. In the result, the appeal of the Revenue is dismissed.

Order was pronounced in open court on 25th October, 2021.

Sd/-

(G.S. PANNU)

PRESIDENT

Delhi; Dated: 25/10/2021.

Shekhar / Amit Kumar

Copy forwarded to:

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

Sd/-

(KUL BHARAT)

JUDICIAL MEMBER

ASSISTANT REGISTRAR
ITAT, NEW DELHI