

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "B": NEW DELHI**

**BEFORE SHRI G.S. PANNU, HON'BLE PRESIDENT
AND
SHRI AMIT SHUKLA, JUDICIAL MEMBER**

ITA No.6254/Del/2017
Asstt. Year: 2012-13

M/s. Cear India Finance Pvt. Ltd. K-15, South Extension-1, New Delhi – 110 049 PAN AAACC0040R	Vs.	ITO, Ward-5(4) New Delhi.
(Appellant)		(Respondent)

Assessee by:	Shri Satyen Sethi, Advocate Shri A.T. Panda, Advocate
Department by :	Shri Harpal Singh, Sr. DR
Date of hearing:	25.10.2021
Date of pronouncement:	25.10.2021

ORDER

PER AMIT SHUKLA, J.M.

The aforesaid appeal has been filed by the assessee against impugned order dated 26.5.2017, passed by Ld. CIT(Appeals)-2, New Delhi for the quantum of assessment passed u/s 154/143(3) for the assessment year 2012-13. In the grounds of appeal assessee has raised following grounds:-

“Ground No. 1:

The Ld. CIT (A)-2 in confirming the order passed by the Ld. Income Tax Officer, Ward 5(4), New Delhi (hereinafter referred to as “learned AO”) has erred in law and in the fact & circumstances of the case by passing the assessment order dated 17th February 2016 under section 154/143(3) of the Act and assessing the total income of the appellant at Rs. 15,11,003 and thereby raising a demand of Rs. 4,37,780.

Ground No. 2:

The learned CIT(A) has erred on facts and in law in assessing the total income at Rs. 15,11,003 under section 115JB of the Act thereby disallowing expenditure under section 14A amounting to Rs. 15,23,336 on the basis of the change in opinion (observation from the audit party) which cannot be called a 'mistake apparent from records' under the provisions of section 154 of the Act.

The appellant contends that the disallowance made by the learned CIT(A) should be deleted.

Ground No. 3:

The learned CIT(A) erred in applying rule 8D while calculating the expense incurred in relating to the earning exempt income to be disallowed under the provisions of the Act.

Ground No. 4:

On the facts and circumstances of the case and in law, the learned CIT(A) erred in levying interest u/s 234B and 234C of the Act on the disallowances made in the assessment order.”

2. From the perusal of the impugned order, it is seen that the Ld. CIT (A) has confirmed that disallowance u/s 14A while computing the book profit u/s 115JB. It has been admitted by both the parties that the issue whether any disallowance u/s 14A can be added as book profit or not stands covered by the decision of Hon'ble Special Bench in the case of ACIT vs. **Vireet Investment (P) Ltd.** and also the decision of Hon'ble Karnataka High Court in the case of **Sobha Developers Ltd. vs. DCIT (2021) 434 ITR 266**, wherein it has been held that

disallowance the computation of book profit u/s 115JB has to be made without resorting to disallowance u/s 14A. Since this is the only issue involved in the present appeal, therefore, respectfully following the aforesaid judgement of special bench of Hon'ble Karnataka High Court we hold that no disallowance u/s 14A can be made while computing the book profit u/s 115JB.

3. In the result the appeal of the assessee is allowed.

Order pronounced in the Open Court on 25th October, 2021.

sd/-
(G.S. PANNU)
PRESIDENT

sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER

Dated: 25/10/2021

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Copy forwarded to

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

ASSISTANT REGISTRAR
ITAT, New Delhi

