

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH 'B' : NEW DELHI)**

**SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER
and
SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER**

**ITA No.3471/Del./2018
(ASSESSMENT YEAR : 2013-14)**

DCIT, Circle 25 (1), vs. T.G. Leisure and Resorts Pvt. Ltd.,
New Delhi. Khasra No.646 to 643, Main Chattarpur,
Temple Road, Village Chattapur,
New Delhi – 110 030.

(PAN : AABCT2479E)

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : None
REVENUE BY : Ms. Sangeeta Yadav, Sr. DR

Date of Hearing : 06.07.2022
Date of Order : 06.07.2022

ORDER

PER SHAMIM YAHYA, ACCOUNTANT MEMBER :

This appeal by the Revenue is directed against the order of the Id. CIT (Appeals)-9, New Delhi dated 23.02.2018 for the assessment year 2013-14.

2. The Revenue has taken the following grounds of appeal :-

“1. The impugned order of the CIT (A) is bad in law as well as on facts of the issue.

2. On the facts and in the circumstances of the case and in law, the Ld. CIT (A) has erred in deleting the addition of Rs.1,73,52,038/- made on account disallowance of u/s 14A by ignoring the fact that as mandated by CBDT Circular No.5/2014 [F.No.225/182/2013-14 ITA.II] dated 11.02.2014 wherein it has been clarified that rule 8D read with section 14A of the fact, provides for disallowance of the expenditure even where the assessee has not earned any exempt income during the year.”

3. The issue in dispute has been decided in favour of the assessee by the Id. CIT (A) by following decisions of various Hon'ble High Courts including that of Hon'ble jurisdictional High Court. However, before us, Id. DR of the Revenue submitted that in view of the recent amendment in the provisions of the Income-tax Act, 1961 (for short 'the Act') with regard to section 14A in this regard where it has been provided that disallowance has to be done irrespective of the fact that any exempt income has been earned, the issue needs to be decided in favour of the Revenue.

4. We note that none appeared on behalf of the assessee for the past 7 occasions. Today also, when appeal was called for nobody was available, hence we proceed to decide the appeal after hearing Id. DR. Further the issue raised by the Id. DR about the effect of amendment in the Act on the issue has not been considered by the Id. CIT (A). Hence, in the interest of justice, we deem it appropriate to remit the file to Id. CIT (A). Id. CIT (A) shall pass a fresh order after considering our observations as above and decide as per law.

5. In the result, the appeal of the Revenue is allowed for statistical purposes.

Order pronounced in the open court on this 6th day of July, 2022 after the conclusion of the hearing.

**Sd/-
(NARENDER KUMAR CHOUDHRY)
JUDICIAL MEMBER**

**sd/-
(SHAMIM YAHYA)
ACCOUNTANT MEMBER**

**Dated the 5th day of July, 2022
TS**

Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT (A)-9, New Delhi.
- 5.CIT(ITAT), New Delhi.

AR, ITAT
NEW DELHI.
