

**IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'A' BENCH,  
NEW DELHI**

**BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER, AND  
MS. ASTHA CHANDRA, JUDICIAL MEMBER**

ITA No. 1203/DEL/2021 [A.Y 2014-15)  
ITA No. 4432/DEL/2019 [A.Y 2015-16)  
ITA No. 8963/DEL/2019 [A.Y 2016-17)  
ITA No. 1204/DEL/2021 [A.Y 2017-18)

The A.C.I.T  
Circle - 17  
New Delhi.

Vs.

M/s Bharat Hotels Ltd  
Barakhamba Lane  
New Delhi

PAN: AAACB 1298 F

(Applicant)

(Respondent)

Assessee By : Shri Sumeet Singh, CA  
Shri Praveen Goel, Adv

Department By : Shri Kanav Bali, Sr. DR

**Date of Hearing : 30.08.2022**

**Date of Pronouncement : 30.08.2022**

**ORDER**

**PER N.K. BILLAIYA, ACCOUNTANT MEMBER:-**

The above captioned four separate appeals by the Revenue are preferred against four separate orders of the Id. CIT(A)-27, New Delhi dated 23.02.2021 for Assessment Year 2014-15, Id. CIT(A) - 2, New Delhi dated 25.02.2021 for Assessment Year 2015-16, Id. CIT(A)-2, New Delhi dated 26.08.2019 for Assessment Year 2016-17 and Id. CIT(A)-27, New Delhi dated 23.02.2021 for Assessment Year 2017-18 .

2. Since common grievances are involved in all the captioned appeals, they were heard together and are disposed of by this common order for the sake convenience and brevity.

3. The common grievance of the assessee in all the captioned appeals relates to the deletion of addition made by the Assessing Officer on account of disallowance u/s 14A of the Income-tax Act, 1961 [hereinafter referred to as 'The Act'], though the quantum may differ in each Assessment Year under consideration.

4. The second common grievance in ITA No. 1203/DEL/2021 and 1204/DEL/2021 relates to the deletion of addition made by the Assessing Officer on account of disallowance of depreciation relating to World Trade Centre and World Trade Tower.

5. In so far as the common grievance relating to deletion of disallowance made u/s 14A of the Act is concerned, we have carefully perused the assessment orders of the captioned Assessment Years. The undisputed fact is that during the captioned Assessment Years, the assessee has not earned any exempt income. Therefore, the ratio laid down by the Hon'ble Jurisdictional High Court of Delhi in the case of Caraf Builders & Constructions [P] Ltd 414 ITR 122 squarely applies wherein the Hon'ble High Court of Delhi has held that if no exempt income is earned, no disallowance shall be made u/s 14A of the Act r.w.r 8D of the Rules..

6. The Hon'ble High Court of Delhi in the case of Era Infrastructure in ITA No. 204/2022 vide order dated 20.07.2022 further clarified that an amendment in the relevant provisions of the Act is prospective.

7. Considering the binding decisions, this common ground is dismissed in the captioned Assessment Years.

8. Second common grievance which is in Assessment Years 2014-15 and 2017-18 relates to the claim of depreciation in respect of World Trade Centre and World Trade Tower.

9. The only reason for disallowing the claim of depreciation by the Assessing Officer is that the buildings vested with the NDMC and the appellant enjoys rights of occupancy only. A perusal of the orders of the authorities below shows that similar disallowances were made in earlier Assessment Years and the same were deleted by the first appellate authority following the decision of the Hon'ble High Court of Delhi in the case of the assessee itself in Assessment Years 1989-90, 1991-92, 1992-93 and 1993-94 vide order dated 24.07.20-15 wherein the Hon'ble High Court held as under:

"The court is satisfied that during the Assessment Years in question, the assessee was indeed in full control of the three buildings, viz, The hotel building, The WTT and WTC and that in any event, notwithstanding the clarifactory amendment inserted as Explanation No. 1 in Sec. 32 w.e.f. 1<sup>st</sup> April 1989, the assessee would be entitled to claim depreciation in respect thereof including depreciation on the plumbing and sanitary ware installed therein. Consequently, questions 1 to 4 are answered in the affirmative i.e. in favour of the assessee...."

10. Since no distinguishing facts have been brought on record, respectfully following the findings of the predecessor, this ground is also dismissed.

11. In the result, all the four appeals of the Revenue in ITA No. 1203/DEL/2021, ITA No. 4432/DEL/2019, ITA No. 8963/DEL/2019 and ITA No.1204/DEL/2021 are dismissed.

The order is pronounced in the open court on 30.08.2022.

Sd/-

**[ASTHA CHANDRA]  
JUDICIAL MEMBER**

Sd/-

**[N.K. BILLAIYA]  
ACCOUNTANT MEMBER**

Dated: 30<sup>th</sup> August, 2022.

VL/

Copy forwarded to:

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

Asst. Registrar,  
ITAT, New Delhi

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Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr.PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
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