

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

**BEFORE SH. C. M. GARG, JUDICIAL MEMBER  
AND  
SH. N.K. BILLAIYA, ACCOUNTANT MEMBER**

ITA No.4386/Del/2019  
Assessment Year: 2014-15

<b>Bry Air (Asia) Pvt. Ltd.</b> <b>20, Rajpur Road, Civil</b> <b>Lines, New Delhi-110054</b> <b>PAN No.AAACB4050A</b>	<b>Vs</b>	<b>DCIT</b> <b>Circle – 5 (1)</b> <b>New Delhi</b>
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>

<b>Appellant</b>	Sh. Shailender Bajaj, CA
<b>Respondent</b>	Sh. Kanv Bali, Sr DR

Date of hearing:	01/12/2022
Date of Pronouncement:	06/12/2022

**ORDER**

**PER N.K. BILLAIYA, AM:**

This appeal by the assessee is preferred against the order of the CIT(A)-33, New Delhi dated 25.02.2019 pertaining to A.Y.2014-15.

2. The sum and substance of the grievance of the assessee is that the CIT(A) erred in sustaining the addition of Rs.56,81,939/- out of total disallowance of Rs.71,95,210/- made by the AO u/s. 14A r.w.r. 8D of the Act.

3. Briefly stated the facts of the case are that the assessee filed its return declaring income of Rs.25,50,81,344/- on 30.11.2014 which was revised on 30.03.2016 declaring income of Rs.25,52,38,536/-. The return was selected for scrutiny assessment and accordingly statutory notices were issued and served upon the assessee.

4. During the course of the scrutiny assessment proceedings the AO noticed that the assessee has claimed dividend income of Rs.48.49 lacs as exempt income. Invoking the provisions of section 14A r.w.r. 8D the AO asked the assessee to give details of expenditure incurred in relation to income not includible in total income. Vide questionnaire dated 10.11.2016 assessee was show caused why disallowances of expenses pertaining to exempt income not be made as per provisions of section 14A r.w.r. 8D of the Act. Assessee filed a detailed reply which though considered by the AO but did not find any favour with the AO who proceeded by computing the disallowance u/s. 14A r.w.r. 8D and the disallowance was computed at Rs.71,95,210/-.

5. The assessee strongly agitated the disallowance before the CIT(A) contending that it has invested its surplus funds in the mutual funds and earned the dividend income. It was brought to the notice of the CIT(A) that the assessee has suo moto disallowed salary and other administrative cost amounting to Rs.5,48,196/-. It was further explained that the assessee has maintained

separate account to determine the expenditure incurred for earning exempt income and the investment have been made out of free reserves.

6. After considering the facts and the submissions the CIT(A) was partly convinced and restricted the disallowance to Rs.5,68,1939/-.

7. Before us the Counsel for the assessee reiterated what has been stated before the lower authorities and the DR strongly relied upon the findings of the AO and read the relevant part of the Assessment Order and the order of the CIT(A).

8. We have carefully considered the orders of the authorities below and have carefully perused the relevant documentary evidences brought on record in the light of Rule 18 (6) of the ITAT Rules.

9. We find that the assessee has reserves of Rs.113.45 crores out of which it has made investments in mutual funds of Rs.90.29 crores. The investment in the immediately preceding financial year was Rs.78.76. We find that during the year under consideration the assessee had surplus cash of Rs.61.49 crores from operating activities.

10. Considering the above facts it can be safely concluded that the entire investment has been made out of interest free funds.

11. It is also not in dispute that the assessee has maintained separate account to determine the expenditure incurred for earning exempt income and none of the lower authorities have pointed out any defect in such account. Therefore, in our considered opinion the suo moto disallowance of Rs.548196/- suffice for earning the exempt income and no further disallowance is to be made. We accordingly direct the AO to delete the disallowance of Rs.56,81,939/- sustained by the CIT(A) out of the total disallowance of Rs.71,95,210/- which means that the entire disallowance stand deleted.

12. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 06.12.2022.

Sd/-  
**(C.M. GARG)**  
**JUDICIAL MEMBER**

\*NEHA, Sr. Private Secretary\*

Date:- .12.2022

Copy forwarded to:

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

Sd/-  
**(N. K. BILLAIYA)**  
**ACCOUNTANT MEMBER**

ASSISTANT REGISTRAR  
ITAT NEW DELHI