

**THE INCOME TAX APPELLATE TRIBUNAL  
DELHIBENCH 'A', NEW DELHI**

**Before Sh. C. M. Garg, Judicial Member  
Dr. B. R. R. Kumar, Accountant Member**

**ITA No. 773/Del/2020 : Asstt. Year: 2014-15**

DCIT, Central Circle-31, New Delhi	Vs.	Bhilwara Energy Ltd., 40-41, Bhilwara Bhawan, Community Centre, New Friends Colony, New Delhi-110025
(APPELLANT)		(RESPONDENT)
<b>PAN No. AACCB9081B</b>		

**Assessee by : Sh. Akshat Jain, CA  
Revenue by : Sh. Kanv Bali, Sr. DR**

<b>Date of Hearing: 08.02.2023</b>	<b>Date of Pronouncement: 14.02.2023</b>
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**ORDER**

**Per Dr. B. R. R. Kumar, Accountant Member:**

The present appeal has been filed by Revenue against the order of the Id CIT(A)-33, New Delhi dated 16.09.2019.

2. The Revenue has raised the following grounds of appeal:

*"1. Whether on the facts and circumstances of the case, the Id CIT(A) has erred in law and on facts in allowing relief to the assessee on the suo moto disallowance made by the assessee u/s 14A read with rule 8D of the Income Tax rules, 1962 in his return of income filed on 25.11.2015."*

3. The assessee filed return of income declaring a loss of Rs.16.13 crores. The assessee company suo moto disallowance an amount of Rs. 9.9 crores consisting of interest of Rs. 9.5 crores and other expenses of Rs. 40 lakhs on account of disallowance u/s 14A read with Rule 8D. Before the AO, the

assessee pleaded that the amount has been wrongly disallowed *suo moto* and hence, remission be granted from the returned income.

4. The Id. CIT(A) after considering the following judgments:

- Holcim India Pvt. Ltd. in ITA No. 486/2014 & 299/2014 (Del)
- Cheminvest Ltd. in ITA No. 749/2014 (Del)
- Joint Investment Pvt. Ltd Vs. CIT in ITA No. 117/2015 (Del)

5. The fact that the exempt income received by the assessee of Rs. 2,093(Rupees Two thousand and ninety three only) not been in dispute. The disallowance in any case cannot be more than the exempt income earned. The state cannot clutch the undue benefit of the mistake committed by the tax payer. Hence, we decline to interfere with the order of the Id CIT(A).

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

Order Pronounced in the Open Court on 14/02/2023.

Sd/-

**(C. M. Garg)**  
**Judicial Member**

**Dated: 14/02/2023**

Sd/-

**(Dr. B. R. R. Kumar)**  
**Accountant Member**

\*Ajay Kumar Keot, Sr. PS\*

Copy forwarded to:

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

**ASSISTANT REGISTRAR**