

IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH : B : NEW DELHI

BEFORE SHRI ANIL CHATURVEDI, ACCOUNTANT MEMBER  
AND  
SHRI C.M. GARG, JUDICIAL MEMBER

ITAs No.3737/Del/2018  
Assessment Year: 2013-14

Simon India Ltd.,  
Mehtab House,  
A-36, Ground Floor,  
Mohan Cooperative Industrial Estate,  
New Delhi.

Vs. DCIT,  
Circle-23(2),  
New Delhi.

PAN: AAEC5013J

(Appellant)

(Respondent)

Assessee by	:	Shri KVS R Krishna, CA
Revenue by	:	Ms Kirti Sankratyayan, Sr. DR
Date of Hearing	:	20.12.2022
Date of Pronouncement	:	23.02.2023

ORDER

PER C.M. GARG, JM:

This appeal filed by the assessee is directed against the order dated 23.08.2018 of the CIT(A)-8, New Delhi, relating to Assessment Year 2013-14.

"1. The Ld. CIT(A) has erred in law and on facts in confirming the disallowance of Rs. 12.54 lacs investments made u/s 14A to the extent of dividend on non-current investments. The disallowance is wrong and bad in law and deserves to be deleted.

2. The appellant contends that on the facts and circumstances of the case there is no expenditure incurred for earning the tax free income. The Ld. CIT(A) as well as AO rejected assessee's plea without giving any reason nor they have found any expenditure having incurred for earning the tax free income from the examination of books and vouchers. No such nexus has been established. Hence no disallowance u/s 14A should be made.

*3. The above grounds are independent and without prejudice to one another.*

*4. The appellant prays that he may be allowed to add, amend, alter, and forego any of the grounds at the time of hearing."*

2. The Id. Counsel of the assessee submitted that the issue of disallowance u/s 14A of the Income-tax Act, 1961 (for short, 'the Act') r.w. Rule 8D of the Income-tax Rules, 1962 is covered by the order of the Hon'ble jurisdictional High Court of Delhi dated 02.12.2022 in ITA 67/2018 in assessee's own case wherein the appeal of the Revenue challenging the order of the Tribunal for AY 2009-10 has been dismissed. He further submitted that under identical facts and circumstances, on the identical issue, the Tribunal, allowing the appeal of the assessee for AY 2010-11 and 2011-12 had allowed the ground of the assessee deleting the disallowance made u/s 14A r.w.r. 8D of the Rules. Therefore, under identical facts and circumstances, the identical issue for present AY 2013-14 is covered by the order of the Hon'ble jurisdictional High Court and order of the ITAT Delhi Bench in assessee's own appeal. Therefore, the disallowance made by the AO may kindly be deleted.

3. The Id. Sr. DR strongly supported the orders of the authorities below. However, he did not controvert that under identical facts and circumstances, the Hon'ble jurisdictional High Court has dismissed the appeal of the Revenue confirming the order of the Tribunal wherein the disallowance made by the AO u/s 14A r.w.r. 8D was deleted.

4. In view of the foregoing, we find that the present issue is covered in favour of the assessee by the order of the Hon'ble jurisdictional High Court for AY 2009-10 and

by the ITAT Delhi bench order for subsequent AYs 2011-12 and 2012-13. Therefore, respectfully following the same, the disallowance made by the AO and confirmed by the Id.CIT(A) u/s 14A r.w.r 8D of the IT Rules, in the instant case is deleted. Accordingly, the grounds of the assessee are allowed.

5. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the open court on 23.02.2023.

Sd/-

(ANIL CHATURVEDI)  
ACCOUNTANT MEMBER

Dated: 23<sup>rd</sup> February, 2023.

dk

Copy forwarded to :

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

Sd/-

(C.M. GARG)  
JUDICIAL MEMBER

Asstt. Registrar, ITAT, New Delhi