

IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "E" NEW DELHI

BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER  
AND SHRI ANUBHAV SHARMA, JUDICIAL MEMBER

आ.अ.सं./I.T.A No.3714/Del/2019  
निर्धारणवर्ष/Assessment Year:2015-16

Om Prakash Khaitan Khaitan House, B-1, Defence Colony, New Delhi.	बनाम Vs.	ACIT Circle 61(1) New Delhi.
PAN No. AHJPK7370H		
अपीलार्थी Appellant		प्रत्यर्थी/Respondent

निर्धारितकीओरसे /Assessee by	Shri S.P. Aggarwal, CA & Shri Abhishek Aggarwal, Adv.
राजस्वकीओरसे /Revenue by	Ms. Sarita Kumari, CIT DR

सुनवाईकीतारीख/ Date of hearing:	27.04.2023
उद्घोषणाकीतारीख/Pronouncement on	28.04.2023

आदेश /O R D E R

PER N.K. BILLAIYA, A.M.

This appeal by the Assessee is preferred against the order of the Ld.CIT(Appeals)-38, New Delhi dated 26.03.2019 pertaining to AY 2015-16.

2. The solitary grievance of the assessee is that the CIT(A) erred in confirming addition made u/s 14A of the Act read with Rule 8D amounting to Rs.25,59,533/-.

3. Briefly stated the facts are that during the course of the scrutiny assessment proceedings the AO noticed that the assessee has earned

exempt income. Assessee was asked to show-cause why disallowance should not be made u/s 14A read with Rule 8D. In its reply, the assessee submitted that it has not incurred any direct or indirect expenditure in connection with investments made in securities and mutual funds from where it has earned exempt income. It was explained that assessee has paid portfolio management charges amounting to Rs.66,338/- and STT at Rs.23,412/-. It was pointed out that Rs.89,750/- has been *suo moto* added back by the assessee while computing its return of income. Therefore, no further disallowance is to be made. This submission of the assessee was dismissed by the AO who proceeded to compute the disallowance u/s 14A read with Rule 8D at Rs.25,59,533/-. Assessee carried the matter before CIT(A) but without any success.

4. Before us the Counsel for the assessee vehemently stated that the facts are similar to the facts of AY 2011-12 and 2013-14, where the issue has been decided in favour of the assessee and against the Revenue by the Hon'ble Jurisdictional High Court of Delhi.

5. Per contra, the DR strongly supporting the assessment order stated that the facts are clearly distinguishable and read the operative part of the assessment order.

6. We have given a thoughtful consideration to the orders of the authorities below. At the very outset, we have to state that the facts of the year under consideration are no different than the facts considered in

AY 2011-12 and 2013-14, wherein by a separate order of even date in ITA No.4701/Del/2018 and 4702/Del/2018. We have decided this issue in favour of the Assessee and against the Revenue by following the decision of the Hon'ble Jurisdictional High Court of Delhi. For our detailed discussion therein, we direct the AO to delete the addition of Rs.25,59,533/-.

7. In the result, appeal of the assessee is accordingly allowed.

Order pronounced in the open court on 28/04/2023

Sd/-  
(ANUBHAV SHARMA)  
JUDICIAL MEMBER

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

Dated: 28.04.2023

*\*Kavita Arora, Sr. P.S.*

Copy of order sent to- Assessee/AO/Pr. CIT/ CIT (A)/ ITAT (DR)/Guard file of ITAT.

By order

Assistant Registrar, ITAT: Delhi Benches-Delhi