

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

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

ITA No.2002/Del/2022  
Assessment Year: 2017-18

<b>Monind Limited 11, Monnet House, Masjid Moth, Greater Kailash-2, New Delhi-110048 PAN No.AAACM0437E (APPELLANT)</b>	<b>Vs</b>	<b>DCIT Circle – 17 (2) New Delhi  (RESPONDENT)</b>
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Appellant by	Sh. V.K. Jain, CA
Respondent by	Sh. M.K. Pandey, Sr DR

Date of hearing:	03/07/2023
Date of Pronouncement:	07/07/2023

**ORDER**

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

This appeal by the assessee is preferred against the order of the CIT(A)-26, Delhi dated 04.07.2022 pertaining to A.Y.2017-18.

2. The grievance of the assessee read as under :-

1. *That on the facts of the case, in the circumstances of the case and in law, the Ld.CIT(A)-26 has erred in upholding the disallowances of Rs1,37,40,250/- towards disallowance u/s 14A r.w.r 8D and has failed to appreciate that in case of no exempt income then no disallowance is called for.*

2. *That the Ld. CIT(A) has erred in not appreciating the decision of Hon'ble Jurisdictional Delhi High Court in the case of M/s Holicim India Pvt Ltd and M/s*

*Chem Invest Ltd wherein it is held that in case of no dividend income/exempt income earned, which is exempt from tax then no disallowance is called for. The same view has been held by Madras High Court in the case of CIT vs Chettinad Electronics and Logistics Pvt Ltd and SPL of Revenue has been dismissed by the Hon'ble Apex Court.*

3. *That in the Finance Act, 2022 Explanation to Section 14A inserted and in Memorandum Regarding delegated legislation, it has been clarified that this amendment and explanation will take effect from 01.04.2022 and accordingly apply in relation to Assessment Year 2022-23 and subsequent years and the same is squarely covered by the ruling of Delhi High Court in case of Pr. CIT vs Era Infrastructure (India) Ltd bearing ITA No. 204/2022 dated 20.07.2022..*

4. *That the Ld. CIT(A) has failed to appreciate the fact that disallowance of Rs. 13740250/- made Assessing Officer, which far exceeds the actual expenses of Rs. 6938328 claimed in the Profit & Loss Account and Computation of Income which is against the proviso contained in Rule 8D which specifically provides that the disallowance shall not exceed the actual expenditure incurred.*

3. Briefly stated the facts of the case are that the assessee company is involved in the business of manufacturing of Ferro alloys and trading of steel and other allied products.

4. During the course of the scrutiny assessment proceedings and on perusal of the balance sheet the AO noticed that the assessee has shown noncurrent investments in non convertible cumulative redeemable preference shares. The AO further observed that to earn exempt income, the assessee company has an investment of Rs.1,75,00,25,000/- as on 31.03.2016 and Rs. 99,80,25,000/- as on 31.03.2017. The AO found that the assessee has not made any disallowance u/s. 14A of the Act.

5. Invoking the provision of section 14A r.w.r. 8D the AO computed the disallowance at Rs. 13740250/-.

6. Assessee carried the matter before the CIT(A) but without any success.

7. Before us the Counsel stated that the assessee has nil exempt income and drawing support from various judicial decisions, the Counsel stated that no disallowance can be made if there is no exempt income.

8. The DR strongly supported the findings of the AO.

9. We have carefully considered the orders of the authorities below. There is no dispute that during the year under consideration the assessee has earned nil exempt income. The Hon'ble High Court of Delhi in the case of Delhi International Airport Private Limited 291 taxmann 490 has held that s. 14A would not be applicable if no exempt income was received or receivable during the previous year. Similar view was taken by the Hon'ble High Court of Delhi in the case of Era Infrastructure India Limited 141 taxmann.com 289.

10. Respectfully following the binding decisions of the Hon'ble jurisdictional High Court of Delhi we direct the AO to delete the impugned addition. The appeal of the assessee is accordingly allowed.

Order pronounced in the open court on 07.07.2023.

Sd/-  
**[ASTHA CHANDRA]**  
**JUDICIAL MEMBER**

Dated: .06.2023

\*Neha\*

Copy forwarded to:

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

Sd/-  
**[N.K. BILLAIYA]**  
**ACCOUNTANT MEMBER**

Asst. Registrar  
ITAT, New Delhi