

**IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI "G" BENCH, MUMBAI**

**Before Shri Prashant Maharishi, Accountant Member &  
Shri Narender Kumar Choudhry, Judicial Member**

**ITA No. 1553/Mum/2023**  
(Assessment Year: 2018-19)

DCIT, Central Circle - 6(4)  
Room No. 1925, 1st Floor  
Air India Building  
Nariman Point  
Mumbai 400021

Vs.

M/s. Yaari Digital Integarted  
Services Ltd.  
Plot No. 448-451, Phase-V  
Udyog Vihar, Gurgaon,  
(Haryana) 122016  
PAN - **AABCI7129N**

**Appellant**

**Respondent**

Appellant by: Shri Raj Singh Meel, Ld. CIT-DR  
Respondent by: None

Date of Hearing: 07.08.2023  
Date of Pronouncement: 18.08.2023

**ORDER**

**Per: N.K. Choudhry, JM**

This appeal has been preferred by the Assessee against the order dated 16.02.2023 impugned herein passed by the learned Commissioner of Income Tax (Appeal)/National Faceless Appeal Centre, Delhi (NFAC) (in short Id. Commissioner) under section 250 of the Income Tax Act, 1961 (in short the Act) for AY 2018-19.

**2.** In the instant case, the relevant facts for adjudication of the instant appeal are that the Assessing Officer (AO) vide assessment order dated 10.04.2021 passed under section 143(3) of the Act, also made the disallowance of Rs.3,92,19,676/- under section 14A of the Act by concluding as under: -

*“3.5 Thus, the amount of expenditure attributable to the activity of investments, income from which is not includible in total income of the assessee, is hereby determined in accordance with Rule 8D of the Income Tax Rules, 1962 at Rs. 3,93,09,916/-. However, the assessee has already disallowed Rs.90,240/- in the computation of income. Thus, having regard to the proviso to sub-rule (2) of Rule 8D of the Income-tax Rules, 1962, balance disallowance of Rs.3,92,19,676/-as worked out as per Rule 8D hereinabove, is hereby added to income of the assessee under normal provisions as well as Book Profit of the assessee company.”*

**3.** The learned Commissioner affirmed the said addition in first appeal. The Assessee being aggrieved is in appeal before us.

**4.** Heard the Id. DR and perused the material available on record. The Id. Commissioner in the impugned order by observing as under:

*“That the Hon’ble Madras High in the Chettinad Logistics P. Ltd. Case has clearly held that rule 8D of Income Tax Rules, 1962 cannot override the provisions of section 14A of the Act. The Hon'ble Apex Court in the case of Chettinad Logistics P. Ltd. (95 taxmann.com 250) has not admitted Revenue SLP against the decision of the Hon'ble Madras High Court (80 taxman.com 221) . Even the Hon'ble Bombay High Court in the case of Nirved Traders P. Ltd. (ITA No. 149 of 2017 decided on 23.04.2019)has also approved the claim that the disallowance under section 14A of the Act is to be restricted to the exempt income earned during the year. Further the Hon'ble Delhi High Court in the case of Era Infrastructure (India) Ltd. (2022) 141 taxmann.com 289 (Del) has also held that amendment of Section 14A, vide Finance Act, 2022, whereby a non obstante clause and an explanation has been inserted after the proviso “for removal of doubts” cannot be presumed to be retrospective effect and will take effect from 1st April, 2022, even where such language is used, if it alters or changes the law, as it earlier stood.”*

Ultimately held that the AO is not correct in making the disallowance of Rs.3,92,19,676/- under section 14A of the Act, when during the year the Assessee earned exempt income of only Rs.17,81,850/-. The learned Commissioner consequently directed to

restrict the disallowance to the extent of tax-exempt income earned during the year.

We have given thoughtful consideration to the determination made by the learned Commissioner and do not find any infirmity or perversity or illegality in the conclusion drawn by the learned Commissioner as the Ld. Commissioner correctly followed the relevant judgements in its right perspective. Consequently, the impugned order is upheld.

**5.** In the result, the appeal filed by the Revenue stands dismissed.

Pronounced in the open Court on 18<sup>th</sup> August, 2023.

Sd/-

**(Prashant Maharishi)**  
**Accountant Member**

Sd/-

**(Narender Kumar Choudhry)**  
**Judicial Member**

Mumbai

Copy to:

1. The Appellant
2. The Respondent
3. The CIT concerned
4. The DR, ITAT, Mumbai
5. Guard File

*By Order*

//True Copy//

*Assistant Registrar*  
*ITAT, Mumbai*

n.p.