

आयकर अपीलीय अधिकरण  
कोलकाता 'बी' पीठ, कोलकाता में  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
KOLKATA 'B' BENCH, KOLKATA**

श्री संजय गर्ग, न्यायिक सदस्य  
एवं  
डॉ. मनीष बोर्ड, लेखा सदस्य  
के समक्ष

**Before  
SRI SANJAY GARG, JUDICIAL MEMBER  
&  
DR. MANISH BORAD, ACCOUNTANT MEMBER**

**I.T.A. No.: 615/KOL/2023  
Assessment Year: 2012-13**

***Pee Kay Vanijya Private Limited.....Appellant  
[PAN: AABCP 6488 P]***

***Vs.***

***DCIT, Circle-7(1), Kolkata.....Respondent***

**Appearances:**

***Assessee represented by: Sh. Akkal Dudhewala, A/R.***

***Department represented by: Sh. P.P.Barman, Addl. CIT, Sr. D/R.***

Date of concluding the hearing : August 2<sup>nd</sup>, 2023

Date of pronouncing the order : September 8<sup>th</sup>, 2023

**ORDER**

**Per Manish Borad, Accountant Member:**

This appeal filed by the assessee pertaining to the Assessment Year (in short 'AY') 2012-13 is directed against the order passed u/s 250 of the Income Tax Act, 1961 (in short the 'Act') by ld. Commissioner of Income Tax (Appeals)-NFAC, Delhi [in short 'ld. CIT(A)'] dated 27.04.2023 arising out of the assessment

order framed by the Assessing Officer (in short ld. 'AO') u/s 143(3) of the Act dated 08.03.2015.

2. The assessee is in appeal before the Tribunal raising the following grounds:

*“1. For that on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the order of the AO making disallowance of Rs. 13,28,529/- u/s 14A read with Rule 8D.*

*2. For that on the facts and circumstances of the case, the interest levied u/s 234B and 234C deserves to be reduced and/or deleted.*

*3. For that the appellant craves leave to submit additional grounds and/or amend or alter the grounds already taken either at the time of hearing of the appeal or before.”*

3. The sole grievance of the assessee is that ld. CIT(A) erred in confirming the disallowance made u/s 14A of the Act at Rs. 13,28,529/- without considering the fact that the assessee has not earned any exempt income during the year.

4. We have heard rival contentions and perused the records placed before us. We notice that the assessee is a private limited company and is a non-banking finance company. Income of Rs. 40,32,330/- declared in the e-return filed for AY 2012-13 on 30.09.2012. During the course of assessment proceedings one of the issues raised by ld. AO was regarding disallowance u/s 14A of the Act. Since the assessee did not maintain any separate books of accounts for the purpose of ascertaining expenses incurred in relation to earning of income not includable in its total income ld. AO applied Rule 8D of the Income Tax Rules, 1962 and computed disallowance u/s 14A of the Act at Rs. 13,28,529/-. Before us ld. Counsel for the assessee, as an officer of Court stated that the

assessee company has not earned any exempt income during the year. We observe that Hon'ble Delhi High Court in the case of *PCIT vs. Era Infrastructure (India) Ltd.* reported in [2022] 141 *taxmann.com* 289 (Delhi) has held that no disallowance u/s 14A of the Act can be made if the assessee had not earned any exempt income during the year under consideration.

5. Thus, respectfully following the same, we find that there is no exempt income earned by the assessee during the year and therefore, disallowance u/s 14A of the Act is uncalled for and accordingly, we set aside the finding of Id. CIT(A) and deleted the addition u/s 14A of the Act at Rs. 13,28,529/-. Thus, ground no. 1 raised by the assessee is allowed.

6. Ground nos. 2 & 3 are general in nature which need no adjudication.

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

***Kolkata, the 8<sup>th</sup> September, 2023***

Sd/-  
[Sanjay Garg]  
Judicial Member

Sd/-  
[Manish Borad]  
Accountant Member

Dated: 08.09.2023

*Bidhan (P.S.)*

*Copy of the order forwarded to:*

- 1. Pee Kay Vanijya Private Limited, 7C, Kiran Shankar Roy Road, Hasting Chambers, 4<sup>th</sup> Floor, Kolkata-700 001.**
- 2. DCIT, Circle-7(1), Kolkata.**
3. CIT(A)-NFAC, Delhi.
4. CIT-
5. CIT(D/R), Kolkata Benches, Kolkata.

*// True copy //*

By order

Assistant Registrar  
ITAT, Kolkata Benches  
Kolkata