

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

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

ITA No.5972/Del/2019
Assessment Year: 2016-17

Milky Investment and Trading Company, 4th Floor, Punjabi Bhawan, 10, Rouse Avenue, New Delhi – 110002 PAN No.AAACM0584A	Vs.	ACIT Circle-16(2) New Delhi
(APPELLANT)		(RESPONDENT)

Appellant by	Sh. M.P. Rastogi, Advocate
Respondent by	Sh. M.P. Dwivedi, Sr. DR

Date of hearing:	23/11/2023
Date of Pronouncement:	28/11/2023

ORDER

PER N. K. BILLAIYA, AM:

This appeal by the assessee is preferred against the order of the CIT(A)-6, Delhi dated 10.06.2018 pertaining to A.Y. 2016-17.

2. The solitary grievance of the assessee is that the CIT(A) erred in confirming the disallowance made u/s. 14A read with rule 8D of the Act by the AO.

3. The assessee filed its return of income declaring loss of Rs.3,06,45,812/-. The return was selected for scrutiny assessment and accordingly statutory notices were issued and served upon the assessee.

4. While scrutinizing the return of income the AO noticed that the assessee has earned exempt income and has suo-moto disallowed a sum of Rs.8,05,336/- u/s.14A of the Act.

5. Invoking rule 8D the AO computed the disallowance at Rs.66,06,025/- and after deducting the disallowance made by the assessee the AO made the addition of Rs.58,00,689/-.

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

7. Before us the Counsel for the assessee strongly contended that without recording any satisfaction the AO has invoked the provisions of section 14A read with rule 8D. It is the say of the Counsel that the AO has completely ignored the suo-moto disallowance made by the assessee. The Counsel drew our attention to the decision of the coordinate Bench in ITA

No.6526/Del/2019 wherein the Tribunal has held that when exempt income is from investment in subsidiary there is no justification to attribute any direct or indirect expenses by the assessee.

8. Per contra the DR strongly supported the findings of the AO and read the operative part of the order.

9. We have carefully considered the orders of the authorities below. It is not in dispute that the assessee has suo-moto disallowed Rs.8,05,336/-. It is equally true that the AO has not pointed out a single item of expense to show that this suo-moto disallowance by the assessee is not justified. We find that the AO has not recorded any satisfaction and no reason has been given in disagreeing with the suo moto disallowance. The undisputed fact is that exempt income is from investments in subsidiary, therefore, there is no logic in attributing any expenditure for maintaining the shares of the subsidiary company.

10. Considering the facts of the case in totality we are of the considered view that the suo moto disallowance of Rs.8,05,336/- should suffice and, therefore, the AO is directed to delete the impugned addition.

11. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 28.11.2023.

Sd/-

(ANUBHAV SHARMA)
JUDICIAL MEMBER

NEHA

Date:- .11.2023

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

Sd/-

(N. K. BILLAIYA)
ACCOUNTANT MEMBER

ASSISTANT REGISTRAR
ITAT NEW DELHI