

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

Before Shri Kul Bharat, Judicial Member

Dr. B. R. R. Kumar, Accountant Member

ITA No. 140/Del/2020 : Asstt. Year: 2016-17

LT Foods Ltd., Unit No. 134, First Floor, Rectangle- 1, Saket District Centre, New Delhi-110017	Vs	Addl. CIT, Special Range-5, New Dehi-110002
(APPELLANT)		(RESPONDENT)
PAN No. AAACL0259K		

**Assessee by : Sh. Rohit Jain, Adv. &
Sh. Samarth Dhumal, CA
Revenue by : Sh. Jeetender K. Kale, Sr. DR**

Date of Hearing: 02.01.2024

Date of Pronouncement: 03.01.2024

ORDER

Per Dr. B. R. R. Kumar, Accountant Member:

The present appeal has been filed by the assessee against the order of Id. CIT(A)-36, New Delhi dated 18.10.2019.

2. The only issue raised before us pertains to disallowance of expenses u/s 14A of the Income Tax Act, 1961. During the year, the assessee received total amount of Rs.66,810/- in respect of which exemption was claimed u/s 10 of the Income Tax Act, 1961. The amount consists of Rs.51,228/- on account of share in profit in the partnership firm, an amount of Rs.15,582/- on account of dividend income from mutual fund. The assessee has *suo motu* made disallowance of Rs.8,44,669/- u/s 14A r.w.r. 8D. The Assessing Officer has increased the disallowance to Rs.1,35,74,360/- which the Id. CIT(A) confirmed. Aggrieved, the

assessee filed appeal before us. The facts are not in dispute. By this time, it is settled position that the disallowance u/s 14A of the Act cannot exceed exempt income claimed. Since, in the instant case, the exempt income claimed by the assessee was Rs.66,810/- and the disallowance already made were to the tune of Rs.8,44,699/-, respectfully placing reliance on the judgment of Hon'ble High Court in the case of Joint Investment Pvt. Ltd. Vs. CIT (372 ITR 694) wherein the appeal filed by the Revenue was also dismissed in SLP No. 23650 of 2018 and CIT Vs. Caraf Builders (Del-HC), we hold that disallowance made by the Assessing Officer cannot be sustained.

3. In the result, the appeal of the assessee is allowed.
Order Pronounced in the Open Court on 03/01/2024.

Sd/-
(Kul Bharat)
Judicial Member

Dated: 03/01/2024

Subodh Kumar, Sr. PS
Copy forwarded to:

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

Sd/-
(Dr. B. R. R. Kumar)
Accountant Member

ASSISTANT REGISTRAR
ITAT, DELHI