

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

**BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER AND
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER**

ITA Nos.1732 & 1733/Del/2023
(Assessment Years : 2017-18 & 2018-19)

DCIT Central Circle – 13, New Delhi PAN No. AAACM 1152 C (APPELLANT)	Vs.	UNO Minda Ltd B-64/1, Wazirpur Industrial Area, New Delhi – 110 052 (RESPONDENT)
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Assessee by	Shri R. K. Kapoor, C.A. & Shri Harish Dhamija, C.A.
Revenue by	Ms. Sapna Bhatia, CIT-D.R.

Date of hearing:	09.01.2024
Date of Pronouncement:	12.01.2024

PER SHAMIM YAHYA, AM :

These are appeals filed by the Revenue against the respective orders of Learned Commissioner of Income Tax (Appeals)-28, New Delhi dated 23.03.2023 pertaining to Assessment Years 2017-18 & 2018-19.

2. Since issues are common and connected and the appeals were heard together, these are being consolidated and disposed off together by this order. For the sake of convenience, we are referring to Assessment Year 2017-18, since facts are similar.

3. The assessee is a company engaged in the business of manufacturing of automobile and auto parts. During the course of assessment proceedings, AO made addition of Rs.7,02,37,609/- on account of disallowance under section 14A of the Act. In the appellate proceeding, learned CIT(A) granted some relief.

4. Against this order, Revenue has filed appeal before us.

5. Although, various grounds have been raised. The sole controversy is with respect to the disallowance of deduction under section 14A of the Act, which has been reduced by the learned CIT(A). After the disallowance made by Assessing Officer under section 14A of the Act, the matter was carried to the learned CIT(A). The CIT(A) held that AO is justified in making the disallowance under section 14A of the Act. But however, he noted that disallowance needs to be worked out considering the investment which have yielded the exempt income. He thereafter, on the basis of investments in shares which yielded exempt income worked out the total disallowance under section 14A at Rs.16,10,892/-. As the assessee has already made disallowance of Rs.4,06,140/- in the return of income, learned CIT(A) sustained the remaining amount of Rs.12,04,752/-.

6. We have heard both the parties and perused the records. Learned DR supported order of assessing officer.

7. Learned AR on the other hand reiterated the submissions made before lower authorities and further submitted that only those investments which yielded exempt income should be considered for working out disallowance u/s 14A r.w.r 8D as also held by Hon'ble Delhi High Court in the case of **Caraf Builders & Constructions (P.) Ltd. [2019] 101 taxmann.com 167 (Delhi)**. He therefore submitted that no interference to the order of CIT(A) is called for. He further submitted that to the extent, the disallowance has been upheld by CIT(A) assessee is not in appeal.

8. It was further brought to our notice by the learned AR that ITAT in assessee's own case in ITA No.684/Del/2021 for A.Y. 2016-17 has sustained the CIT(A)'s order by order dated 07.09.2022 on similar issue by observing as under:

*“10. We have heard the rival submissions and perused the material available on record. The issue in the present ground is with respect to the disallowance u/s 14A r.w.r 8D. We find that CIT(A) after following the decision cited in his order has held that the disallowance u/s 14A r.w.r 8D of the Act is to be worked out only by considering those investments which have yielded exempt income. Before us, Revenue has neither pointed to any fallacy in the findings of CIT(A) nor has placed any contrary binding decision in its support. In such a situation, we find no reason to interfere with the order of CIT(A) and **thus the ground of Revenue is dismissed.**”*

9. In the background of aforesaid discussion and precedents, we uphold the order of learned CIT(A). Hence, Revenue's appeal is dismissed.

10. Our above order applies mutatis mutandis to assessment year 2018-19 also.

11. In the result, both the appeals filed by Revenue stands dismissed.

Order pronounced in the open court on 12.01.2024

Sd/-

**(ANUBHAV SHARMA)
JUDICIAL MEMBER**

Date:- 12.01.2024

*Priti Yadav, Sr. PS**

Sd/-

**(SHMIM YAHYA)
ACCOUNTANT MEMBER**

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI