

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“A” BENCH: BANGALORE**

**BEFORE SHRI GEORGE GEORGE K., VICE PRESIDENT  
AND  
SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER**

ITA No.960/Bang/2023
Assessment Year: 2017-18

DCIT (Central) Central Circle-1(2) Bangalore	<b>Vs.</b>	Valdel Investments Pvt. Ltd. 2/1, Embassy Vogue, Palace Road Vasanthnagar Bangalore Karnataka 560 052  <b>PAN NO : AACCV3079R</b>
<b>APPELLANT</b>		<b>RESPONDENT</b>

<b>Assessee by</b>	:	Shri V. Narendra Sharma, A.R.
<b>Revenue by</b>	:	Shri Nischal B., D.R.

<b>Date of Hearing</b>	:	09.01.2024
<b>Date of Pronouncement</b>	:	09.01.2024

**O R D E R**

**PER CHANDRA POOJARI, ACCOUNTANT MEMBER:**

This appeal by revenue is directed against the order of NFAC passed u/s 250 of the Income Tax Act, 1961 (in short “The Act”) dated 22.09.2023 for the assessment year 2017-18. The revenue has raised following grounds of appeal:

1. *“Whether the Id. CIT(A) was correct on law and facts in deleting the addition made by the AO u/s 14A rw Rule 8D, by not considering the fact that it is immaterial whether exempt income is earned or not during the relevant Assessment Year.*
2. *Whether the Ld. CIT(A) was correct in law and facts in not considering the effect of amendment brought about by the Finance Act, 2022 which has inserted an Explanation to Section 14A clarifying that expenditure can be disallowed by the AO even the absence of exempt income earned during the relevant Assessment Year.*
3. *Whether the Ld. CIT(A) was correct in law and facts in not appreciating the fact that the CBDT Circular No.05/2014 dated 11.02.2014 which was relied the AO*

*in disallowing expenditure u/s 14A r.w. Rule 8D is binding on the Assessing Officer.”*

**2.** Facts of the case are that Valdel Investment Pvt. Ltd. is engaged in real estate activities and filed its return of income for the AY 2017-18 on 31.10.2017 declaring total loss of Rs. 13,19,38,743/- under regular provisions of the Act and claimed a refund of Rs. 1,93,600/-. The case was selected for scrutiny under CASS and notice u/s. 143(2) of the Act was issued on 13.08.2018 during the course of scrutiny proceedings, the AO examined the investments made by the appellant in unlisted equities amounting to Rs. 22,20,23,764/- and held that such an investment leads to exempt income for which assessee has not apprehended any expenditure in relation to such income thereafter by applying provisions of section 14A r.w. Rule 8D, the AO worked out the disallowance at Rs. 2,53,67,595/-.

**3.** After hearing both the parties, we are of the opinion that there is no dispute that the assessee is having no exempt income earned in the assessment year under consideration. Being so, as held by the Hon'ble Karnataka High Court in the case of Goldmansachs Ltd. reported in 409 ITR 268, if there is no exempted income earned by the assessee, there cannot be any disallowance u/s 14A of the Act. In view of the above judgement of jurisdictional High Court, we are inclined to dismiss the appeal of the revenue on similar lines.

**4.** In the result, appeal of the revenue is dismissed.

Order pronounced in the open court on 9<sup>th</sup> Jan, 2024

**Sd/-**  
**(George George K.)**  
**Vice President**

**Sd/-**  
**(Chandra Poojari)**  
**Accountant Member**

Bangalore,  
Dated 9<sup>th</sup> Jan, 2024.  
VG/SPS

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The DR, ITAT, Bangalore.
5. Guard file

By order

**Asst. Registrar,  
ITAT, Bangalore.**