

**IN THE INCOME TAX APPELLATE TRIBUNAL
"C" BENCH, MUMBAI**

**BEFORE SHRI AMARJIT SINGH, ACCOUNTANT MEMBER &
SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER,**

**ITA No.908/Mum/2024
(A.Y. 2014-15)**

Dy. Commissioner of Income Tax Central Circle- 6(1) 19 th Floor, Air India Building, Nariman Point, Maharashtra - 400021	Vs.	Prism Cement Ltd. (Now known as Prism Johnson Ltd) 2 nd Floor, Raheja, Main Avenue, V.P. Road, Santacruz West Maharashtra - 400054
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No:AAACP6224A		
Appellant	..	Respondent

Appellant by :	Anuj Kisnadwala
Respondent by :	Smt. Madhumalti Ghosh

Date of Hearing	30.05.2024
Date of Pronouncement	08.07.2024

आदेश / O R D E R

Per Amarjit Singh (AM):

The present appeal filed by the Revenue is directed against the order of Id. CIT(NFAC) of the Income Tax Act, 1961 for A.Y. 2014-15. The assessee has raised the following grounds before us:

- “1. Whether, on the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in deleting the addition made u/s 14A by holding that the disallowance u/s 14A cannot exceed the exempt income by ignoring the CBDT circular no 5/2014 which is clarificatory in nature?”
2. Whether, on the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in ignoring the explanation to the section 14A introduced w.e.f 01.04.2022 which clearly states that the provisions of the section 14A shall apply and shall be deemed to have always applied in a case where the income, not forming part of the total income under

this Act, has not accrued or arisen or has not been received during the previous year relevant to an assessment year and the expenditure has been incurred during the said previous year in relation to such income not forming part of the total income.?”

2. Fact in brief is that return of income declaring total loss of Rs.2,57,04,88,227/- was filed on 31.11.2014. The case was subject to scrutiny assessment. The assessment order u/s 143(3) of the Act was passed on 30.12.2016. During the course of assessment the assessing officer noticed from the detail filed that assessee had invested in securities amounting to Rs.3,47,25,00,000/- which generated exempt income during the year under consideration. Therefore, the assessing officer has computed disallowance u/s 14A r.w.rule 8D to the amount of Rs.22,05,00,000/- and added to the total income of the assessee.

3. The assessee filed the appeal before the ld. CIT(A). The ld. CIT(A) has restricted the addition to the extent of exempt income earned by the assessee to the amount of Rs.3,91,500/-.

4. Heard both the sides and perused the material on record. Without reiterating the fact as discussed above in this order it is undisputed fact that assessee has earned exempt income in the form of dividend of Rs.3,91,500/- only during the year under consideration. The ITAT Mumbai in the various decision held that the disallowance u/s 14A cannot exceed the exempt income earned by the assessee. The Hon'ble Supreme Court in the case of PCIT Vs. State of Bank of Patiala held that disallowance u/s 14A to be restricted to the amount of exempt income earned by the assessee. Further the Hon'ble Delhi High Court in the case of Era Infrastructure (I) Ltd. (2022) 141 taxman.com 289 (Del) held that amendment made to Sec. 14A cannot presume to be from retrospective effect and same is to be applied prospectively. Considering the aforesaid findings we don't find any reason to interfere in the decision of ld. CIT(A), therefore, both ground of appeal of the revenue dismissed.

5. In the result, the appeal of the Revenue is dismissed.

Order pronounced in the open court on 08.07.2024

Sd/-
(Rahul Chaudhary)
Judicial Member

Sd/-
(Amarjit Singh)
Accountant Member

Place: Mumbai
Date 08.07.2024
Rohit: PS

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त / CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण DR, ITAT,
Mumbai
5. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//
आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण/ ITAT, Bench,
Mumbai.