

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

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
SHRI OMKARESHWAR CHIDARA, ACCOUNTANT MEMBER**

**ITA Nos.2070 & 2068/M/2024
Assessment Years: 2014-15 & 2015-16**

Income Tax Officer 14(3)(1), Room No.554, Aayakar Bhawan, New Marine Lines, Mumbai – 400 020	Vs.	M/s. Supreme Realty Pvt. Ltd., Gr Floor, HDIL Tower, Anant Kanekar Marg, Mumbai Maharashtra-400051 PAN: AALCS0761J
(Appellant)		(Respondent)

Present for:

Assessee by : None
Revenue by : Dr. Kishor Dhule, CIT DR &
Shri Manish Ajudiya, Sr. AR.

Date of Hearing : 18 . 07 . 2024
Date of Pronouncement : 24 . 07 . 2024

O R D E R

Per : Satbeer Singh Godara, Judicial Member:

These Revenue's twin appeals ITA Nos.2070 & 2068/M/2024, for assessment years 2014-15 & 2015-16 arise against the National Faceless Appeal Centre(NFAC) Delhi's as many DIN & order No.ITBA/ NFAC/S/250/2023-24/1061253799(1) & No.ITBA/NFAC/S/250/2023-24/1061253141(1) both dated 21.02.2024, in proceedings under section 143(3) of the Income Tax Act, 1961 (in short 'the Act').

2. Case called twice. None appears at assessee's behest. It is accordingly proceeded ex-parte.

3. The Revenue's former lead appeal ITA No.2068/M/2024 for A.Y. 2015-16 raises the following sole substantive ground:

"Whether on the facts & circumstances of case and in law the CIT(A) erred in deleting the disallowance made u/s.14A ignoring the fact that the disallowance has to be made even if there is no exempt income during the year considering the Explanation added to section 14A which makes it mandatory even when there is no exempt income and language of Explanation makes it clear that it is applicable retrospectively."

4. The Revenue's latter appeal ITA No.2070/M/2024 also appears to be raising the very substantive grievance since the only exception herein is that of the quantum of section 14A r.w.Rule 8D disallowance of Rs.1,84,27,407/-.

5. We proceed further and put the Revenue to the clinching question of the quantum of assessee's exempt income derived in both these assessment years. The Revenue is indeed more than fair; that the assessee has not derived any such exempt income in these twin assessment years. That being the case, we find no merit in the Revenue's instant identical sole

substantive grievance going by PCIT vs Ballarpur Industries Ltd. (2017) 85 taxmann.com 13 (Bom.) that the impugned disallowance does not apply in absence of any exempt income.

6. The Revenue at this stage quotes the statutory Explanation to section 14A inserted by the Finance Act, 2022 w.e.f. 01.04.2022. This Revenue's last argument is found to be devoid of any merit in light of Principal Commissioner of Income-tax v. Keti Construction Ltd. (2024) 162 taxmann.com 278 (MP) and PCIT vs. Era Infrastructure (India) Ltd. (2022) 144 taxmann.com 289 (Delhi) that the same carries only prospective than retrospective effect. We reiterate that our instant adjudication is confined to 2014-15 and 2015-16 only. We accordingly reject the Revenue's instant identical sole substantive grievance in very terms.

7. These Revenue's twin appeals i.e. ITA No.2068 & 2070/M/2024 are dismissed in above terms. A cop of this common order be placed in the respective case files.

Order pronounced in the open court on 24.07.2024.

Sd/-
(OMKARESHWAR CHIDARA)
ACCOUNTANT MEMBER

Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER

* Kishore, Sr. P.S.

Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.