

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI "C" BENCH : MUMBAI

BEFORE SHRI B.R. BASKARAN, ACCOUNTANT MEMBER
AND
SHRI ANIKESH BANERJEE, JUDICIAL MEMBER

ITA No. 1379/Mum/2024
Assessment Year 2020-21

ACIT, Central Circle-6(4) Air India Building, Nariman Point, Mumbai.	vs.	Indiabulls Real Estate Limited, M62 & 63, 1 st Floor, Connaught Place, New Delhi PAN : AABCI5194F
(Appellant)		(Respondent)

For Assessee :	Shri K. Gopal, Adv. & Shri Om Kandalkar, Adv.
For Revenue :	Ms. Madhu Malati Ghosh, CIT-DR

Date of Hearing :	07-08-2024
Date of Pronouncement :	08-08-2024

ORDER

PER B.R. BASKARAN, A.M :

The Revenue has filed this appeal challenging the order passed by the learned Commissioner of Income Tax (Appeals)-NFAC, Delhi (in short 'Ld.CIT(A)') and it relates to AY. 2020-21. The only issue urged by the Revenue in this appeal relates to the relief granted by the Ld.CIT(A) in respect of addition made by the AO u/s. 14A of the Income Tax Act, 1961 ('the Act').

2. We heard the parties and perused the record. The AO noticed that the assessee has made investments, but did not make any disallowance u/s. 14A of the Act. The case of the assessee was that it did not earn any exempt income and hence, no disallowance u/s. 14A

of the Act is called for. The said contention was rejected by the AO. Accordingly, he worked out the disallowance u/s. 14A r.w. Rule 8D of the Income Tax Rules, 1962 ('the Rules') at Rs. 23.98 crores.

3. In the appellate proceedings, the Ld.CIT(A) accepted the above said contentions of the assessee. In support of the above said proposition, the Ld CIT(A) followed the decision rendered by the Hon'ble Bombay High Court in the case of M/s. Nirved Traders Pvt. Ltd., in ITA No. 149 of 2017 and also the decision rendered by the Hon'ble Madras High Court in the case of Chettinad Logistics (P) Ltd., 80 taxmann.com 221 (Madras)/95 taxmann.com 250 (SC), wherein it was held that the disallowance u/s.14A of the Act is not required to be made when the assessee has not earned any exempt income. The Ld CIT(A) noticed that an amendment has been brought by the Statute in Section 14A of the Act w.e.f. 01-04-2022, making the disallowance u/s.14A of the Act mandatory, even if no exempt income is earned. The Ld.CIT(A) held that the said amendment is prospective in nature and in this regard, he relied upon the decision rendered by the Hon'ble Delhi High Court in the case of Era Infrastructure (India) Ltd., (2022) 141 taxmann.com 289 (Delhi). Accordingly, Ld.CIT(A) deleted the disallowance made by the AO u/s.14A of the Act.

4. We heard the parties and perused the record. There is no dispute with regard to the fact that the assessee has not earned any exempt income during the year under consideration. Accordingly, the Ld CIT(A) has deleted the disallowance, by following the decisions rendered by the Hon'ble Bombay High Court and Hon'ble Madras High Court, referred supra. Even though the amendment has been made in section 14A of the Act w.e.f. 01-04-2022 making it mandatory to make disallowance u/s. 14A of the Act even if the exempt income is not earned, the same has been held to be prospective in nature as per the decision of the Hon'ble Delhi High Court in the case of Era Infrastructure (India)

Ltd., (supra). In view of the above, we do not find any infirmity in the order passed by the Ld.CIT(A) and accordingly dismiss the grounds raised by the Revenue.

5. In the result, the appeal filed by the Revenue is dismissed.

Order pronounced in the open court on 8th August, 2024.

Sd/-
[ANIKESH BANERJEE]
JUDICIAL MEMBER

Sd/-
[B.R. BASKARAN]
ACCOUNTANT MEMBER

Mumbai,
Dated: 08-08-2024

TNMM

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1.	The Appellant
2.	The Respondent
3.	The Pr. CIT, Mumbai concerned
4.	D.R. ITAT, "C" Bench, Mumbai.
5.	Guard File.

//By Order//

//True Copy //

Dy./Asst. Registrar,
ITAT, Mumbai