

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. 3097/Mum/2024
Assessment Year 2017-18

| | | |
|---|-----|---|
| Pharmed Limited, 141, Pharmed House, Walchand Hirachand Marg, Mumbai PAN : AAACP2191A | vs. | The Asst. Commissioner of Income Tax, Circle-2(2)(2), Mumbai |
| (Appellant) | | (Respondent) |

| | |
|----------------|--------------------------------|
| For Assessee : | Shri Vijay Mehta |
| For Revenue : | Ms. Madhu Malati Ghosh, CIT-DR |

| | |
|-------------------------|------------|
| Date of Hearing : | 08-08-2024 |
| Date of Pronouncement : | 09-08-2024 |

ORDER

PER B.R. BASKARAN, A.M :

The assessee has filed this appeal challenging the order dt. 01-05-2024 passed by the learned Commissioner of Income Tax (Appeals)-NFAC, Delhi (in short 'Ld.CIT(A)') and it relates to AY. 2017-18. The only issue adjudicated by the assessee in this appeal relates to the disallowance of Rs.26.83 lakhs made by the AO u/s. 14A of the Income Tax Act, 1961 ('the Act').

2. During the assessment proceedings, the AO noticed that the assessee has held investments to the tune of Rs. 59.32 crores in mutual funds, NCD and shares of subsidiary companies. The assessee did not make any disallowance u/s. 14A of the Act. When questioned about the same, the assessee submitted that it has not received any exempt income and hence, disallowance u/s. 14A of the Act is not called for. The AO did not accept the above said contention of the assessee and accordingly, he computed the disallowance u/s. 14A of the Act by applying Rule 8D of the Income Tax Rules, 1962 ('the Rules') at Rs. 26,83,414/-.

3. In the appellate proceedings, Ld.CIT(A) confirmed the same and hence, the assessee has filed this appeal before the Tribunal.

4. We heard the parties and perused the record. The Ld.AR submitted that the Hon'ble Delhi High Court in the case of Era Infrastructure (India) Ltd., (2022) 448 ITR674 has held that disallowance u/s. 14A of the Act is not required to be made when the assessee has not earned any exempt income. It was further held that the amendment brought out 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 exempt income is not earned has been held to be prospective in nature by Hon'ble Delhi High Court in the above said case. Accordingly, Ld.AR submitted that the addition made by the tax authorities is not justified.

5. We heard the Ld.DR and perused the record. Since the assessee has not earned any exempt income during the year under consideration, the disallowance u/s.14A of the Act is not required to be made as per the decision of the Hon'ble Delhi High Court in the case of Era Infrastructure (India) Ltd., (supra). Respectfully following the said decision of the Hon'ble Delhi High Court, we set aside the order passed

ITA No. 3097/Mum/2024

by the Ld.CIT(A) and direct the AO to delete the disallowance made u/s.14A of the Act during the year under consideration.

6. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the open court on 9th August, 2024.

Sd/-
[ANIKESH BANERJEE]
JUDICIAL MEMBER

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

Mumbai,
Dated: 09-08-2024

TNMM

Copy to

| | |
|----|-------------------------------|
| 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