

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'E', NEW DELHI  
BEFORE PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER &  
SHRI VIMAL KUMAR, JUDICIAL MEMBER**

**ITA No. 2949/Del/2024 : Asstt. Year : 2017-18**

DCIT, New Delhi	Vs.	Living Media India Ltd., F-26, First Floor, Connaught Place, New Delhi-110001 <b>PAN No. AAACL0087H</b>
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>

Assessee by	Shri Madhur Aggarwal, Adv.
Revenue by	Shri Amit Shukla, Sr. DR

Date of hearing:	22.10.2024
Date of Pronouncement:	22.10.2024

**ORDER**

**PER PRADIP KUMAR KEDIA, AM :**

The captioned appeal has been filed by the Revenue against the order of National Faceless Appeal Centre (NFAC), Delhi dated 23.04.2024 arising from the Assessment Order dated 27.12.2019 passed by the ACIT, Circle-15(2), New Delhi (hereinafter referred to as 'AO') under Section 143(3) of the Income Tax Act, 1961 (the Act) for Assessment Year 2017-18.

2. As per the grounds of appeal, the Revenue has challenged relief granted by the CIT(A) in deleting the disallowance of Rs.5,68,13,582/- carried out by the AO under Section 14A of the Act r.w. Rule 8D of the Income Tax Rules.

3. When the matter was called for hearing, the Id. Sr. DR for the Revenue relied upon the Assessment Order and submitted that the disallowance carried out by the AO is in accord with the plain language of the relevant provisions of the Act r.w. Rule 8D thereto. Therefore, the CIT(A) was not justified in reversing the disallowance carried out under Section 14A under challenge.

4. The Id. Counsel for the assessee, on the other hand, strongly supported the First Appellate order. On facts, the Id. Counsel pointed out that the assessee itself has carried out *suo moto* disallowance of Rs.26,06,418/- being 1% of the shares held in the subsidiary company namely TV Today Network which has yielded exempt income by way of dividend. The Id. Counsel submitted that the disallowance under Rule 8D(ii) requires to be carried out only with reference to the shares which has yielded exempt income. The investments in shares which did not yield any exempt income cannot be reckoned to apply the statutory formula provided under Rule 8D of the Income Tax Rules. For this proposition, the Id. Counsel relied upon the judgment rendered by the Hon'ble Delhi High Court in the case of ACB India Ltd. Vs. ACIT (374 ITR 108) (Del.) and PCIT Vs. Caraf Builders and Construction Pvt. Ltd. (2019) 101 taxmann.com 167 (Del.) (SLP dismissed) (2019) 112 taxmann.com 322 (SC).

4.1 The Id. Counsel next submitted that identical issue cropped up in Assessment Year 2018-19 where similar disallowance were carried out by the Revenue based on total investments in shares rather than investment in shares which yielded exempt income. The Co-ordinate Bench of Tribunal, in the identical facts, adjudicated the issue in favour of the assessee in assessee's own case in ITA No. 1091/Del/2023 order dated 27.06.2024.

4.2 The Id. Counsel also pointed out that in the identical facts, the issue was also raised in Assessment Year 2010-11. Keeping in mind the *suo moto* disallowance made by the assessee, the additional disallowance made by the AO was reversed by the ITAT in assessee's own case in ITA No. 4460/Del/2015 order dated 01.09.2017. The order passed by the Tribunal was challenged by the Revenue before the Hon'ble High Court u/s 260A of the Act. However, the Hon'ble High Court endorsed the action of the ITAT and declined to interfere with such order.

4.3 The Id. Counsel thus submitted that having regard to the precedents available in assessee's own case as well as other judicial precedents, no interference with the order of the CIT(A) is called for.

5. We have carefully considered the rival submission and perused the Assessment Order as well as First Appellate order and the case laws cited. Material referred to and relied upon has been perused.

5.1 The controversy involved in the present case is whether the disallowance of expenditure under Section 14A in relation to exempt income is restricted to the computation of disallowance of expenditure with reference to the investment value of only those shares which have yielded income or whether for the purpose of disallowance under Section 14A, the entire value of investment held by the assessee is required to be taken into account.

5.2 The issue is no longer *res integra* and has already been dealt with by the Co-ordinate Bench in Assessment Year 2010-11 as well as in Assessment Year 2018-19 in assessee's own case as pointed out on behalf of the assessee. Thus, no fresh examination of facts & law is required on the point raised. The action of the CIT(A) is in conformity with the view expressed by the Co-ordinate Bench of the Tribunal and thus do not call for any inference.

5. In the result, appeal of the Revenue is without any merit and therefore dismissed.

**Order dictated and pronounced in the open Court on 22.10.2024**

**Sd/-**

**(VIMAL KUMAR)  
JUDICIAL MEMBER**

Date: 22.10.2024

*\*Subodh Kumar, Sr. PS\**

**Sd/-**

**(PRADIP KUMAR KEDIA)  
ACCOUNTANT MEMBER**