

**IN THE INCOME TAX APPELLATE TRIBUNAL,
DELHI BENCH: 'E' NEW DELHI**

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

ITA No.2249/Del/2024
Assessment Year: 2019-20

Maheshwari Services Ltd., PI-1, River View Apartment, Patho Ki Magri, Rajasthan	Financial	Vs.	PCIT(Central), Delhi-2, New Delhi
PAN :AAACM9185B			
(Appellant)			(Respondent)

Assessee by	Sh. Rohan Mittal, Adv.
Department by	Sh. Akhilesh Kumar Yadav, Sr. DR

Date of hearing	03.12.2024
Date of pronouncement	06.12.2024

ORDER

PER SATBEER SINGH GODARA, JM

This assessee's appeal for assessment year 2019-20 is directed against the Principal Commissioner of Income Tax (Central) [in short, the "PCIT"], Delhi's order dated 13.03.2024 passed in case no. ITBA/REV/F/REV5/2023-24/1062530408(1),

involving proceedings under sections 143(3) r.w.s. 263 of the Income-tax Act, 1961 (hereinafter referred to as 'the Act').

2. Heard both the parties at length. Case file perused.

3. We find during the course of hearing that the learned PCIT(Central)'s, Delhi-2, impugned revision direction under section 263 of the Act have held the Assessing Officer's section 143(3) regular assessment framed in assessee's case on 18.09.2021, as an erroneous one causing prejudice to interest of the Revenue, on the ground that there was no inquiry or verification carried out so as to invoke disallowance under section 14A of the Act.

4. Mr. Yadav vehemently supports the impugned revision order that the PCIT herein has only restored the assessment back to the Assessing Officer on the issue of section 14A read with Rule 8D disallowance and therefore, the assessee does not suffer any prejudice.

5. The assessee's case on the other hand is that it has not derived any exempt income in the relevant previous year so as to be exigible to the foregoing disallowance.

6. Faced with this situation, learned departmental representative quotes section 14A's Explanation inserted by the

Finance Act, 2022 w.e.f. 01.04.2022 that whether any actual exempt income is derived or not in the relevant previous year is no more a relevant factor.

7. We have given our thoughtful consideration to the foregoing rival submissions and find no merit in the Revenue's arguments supporting the PCIT's action invoking his section 263 revision jurisdiction regarding section 14A read with Rule 8D disallowance. This is for the precise reason that hon'ble jurisdictional high court in case of Era Infrastructure (India) Ltd (2022) 141 taxmann.com 289 (Del. HC) and Williamson Financial Services Ltd. v. Commissioner of Income-tax Citation [2024] 166 taxmann.com 607 (Gauhati) and PCIT Vs. Avantha Realty Ltd. (2024) 64 taxmann.com 376 (Calcutta) have already settled the instant issue in assessee's favour and against the department whilst concluding that section 14A Explanation (supra) does not apply in absence of any exempt income with retrospective effect. We further deem it appropriate to clarify that there is no material in the case file indicating the assessee to have derived any exempt income in the relevant previous year. We thus reverse the learned PCIT's impugned revisional directions in very terms. Ordered accordingly.

8 This assessee's appeal is allowed.

Order pronounced in the open court on 6th December, 2024

Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER

Dated: 6th December, 2024.

RK/-

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi