

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

**Before Sh. Satbeer Singh Godara, Judicial Member
&
Sh. S. Rifaur Rahman, Accountant Member**

ITA No. 1849/Del/2016 : Asstt. Year : 2010-11

M/s Dhanashree Developers Pvt. Ltd., 303, Western Edge-1, Western Express Highway, Above Metro Mall, Borivali East, Mumbai-400066	Vs	DCIT, Central Circle-4, New Delhi
(APPELLANT)		(RESPONDENT)
PAN No. AACCD6182F		

**Assessee by : Sh. Tanzil Padvekar, Adv.
Revenue by : Sh. Sahil Kumar Bansal, Sr. DR**

Date of Hearing: 12.12.2024	Date of Pronouncement: 20.12.2024
------------------------------------	--

ORDER

Per Satbeer Singh Godara, Judicial Member:

This assessee's appeal for Assessment Year 2010-11, arises against the order of CIT(A)-30, New Delhi's case No. 41/14-15/1618 dated 20.01.20116, in proceedings u/s 143(3) of the Income Tax Act, 1961 (in short "The Act").

2. Heard both the parties at length. Case file perused.
3. The assessee's raises the following revised substantive grounds in the instant appeal:

"1. On the facts and in law, the learned Commissioner of Income Tax (Appeals) erred in confirming an addition of Rs. 1,85,90,353/- on account of bogus purchases on the basis of information received from investigation department which in turn relied on information from VAT Department without appreciating that the purchases were fully supported and verifiable by invoices and payments were made by account payee cheques.

2. *On the facts and in law, the learned CIT(A) erred in confirming the disallowance by relying on the statements of the dealers without giving any opportunity of cross examination as also without bringing any corroborative material apart from the statements.*

3. *On the facts and in law, without prejudice to the above grounds, the learned CIT(A) erred in confirming disallowance of purchases which are entirely reflected in work in progress.*

4. *On the facts and in law, the learned CIT(A) erred in confirming disallowance of Rs. 62,36,940/- under Section 14A r. w. s. Rule 8D without recording any satisfaction that any expenditure was incurred for earning exempt income.*

5. *On the facts and in law, learned CIT(A) erred in not appreciating that there was no exempt income earned during the year as also no interest bearing funds were utilized for making investments for tax free income.*

6. *On the facts and in law, learned CIT(A) erred in confirming the disallowance under Section 14A in absence of any nexus of expenditure with tax free income.*

4. We advert to the assessee's first and foremost substantive grievance that both the learned lower authorities have erred in law and on facts in disallowing its purchases in the relevant previous year, as bogus ones, to the tune of Rs.1,85,90,353/- in assessment order dated 28.03.2014 and restricted to Rs.72,50,159/- in the lower appellate proceedings.

5. Learned departmental representative would hardly dispute the clinching fact that the Assessing Officer herein had acted on the DIT(Investigation)-1, Delhi's letter dated 26.02.2013 and further material gathered during scrutiny, to disallow the assessee's impugned claim. It is in this factual backdrop that the assessee appears to have already succeeded on the very issue in A.Y. 2010-11's appeal ITA No. 1848/Del/2016 dated 25.07. 2024 wherein the relevant information came from the letter dated 26.02.2013 only as it is clear from a perusal of para 3 in the said discussion. We thus adopt judicial consistency to delete this former disallowance of Rs.72,50,159/- in very terms.

6. Next comes the latter issue between the parties regarding correctness of section 14A r.w. Rule 8D disallowance of Rs.62,36,940/- made in both the lower proceedings. We note at the outset that the assessee's impugned exempt income was Rs.32,780/- only and therefore, we quote Joint Investment Vs. CIT 372 ITR 694 (Del.) that such a disallowance could not exist the amount of exempt income itself. We adopt the very analogy herein as well to restrict the impugned disallowance of Rs.62,36,940/- to the extent of exempt income of Rs.32,780/- only. Necessary computation shall follow as per law.

6.1 No other ground or argument has been placed before us.

7. This assessee's appeal is partly allowed in above terms.
Order Pronounced in the Open Court on 20/12/2024.

Sd/-

(S. Rifaur Rahman)
Accountant Member

Dated: 20/12/2024

Subodh Kumar, Sr. PS

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

Sd/-

(Satbeer Singh Godara)
Judicial Member

ASSISTANT REGISTRAR