

**IN THE INCOME TAX APPELLATE TRIBUNAL  
COCHIN BENCH, COCHIN**

**Before Shri Inturi Rama Rao, Accountant Member  
&  
Shri Prakash Chand Yadav, Judicial Member**

ITA No.203/Coch/2023 : Asst.Year 2013-2014

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| Bindu Madhav<br>XL/165, Raj Vihar<br>Thottakkat Road<br>Ernakulam – 682 011.<br><b>PAN : ACYPB6927F.</b> | v. | The Assistant Commissioner<br>of Income-tax,<br>Non-Corporate Circle – 1(1)<br>Kochi. |
| (Appellant)  |    | (Respondent)  |

Appellant by : Sri.R.Krishnan, CA  
Respondent by : Smt.Leena Lal, Sr.AR

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| <b>Date of Hearing : 02.12.2024</b> | <b>Date of<br/>Pronouncement : 19.02.2025</b> |
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**ORDER**

**Per Prakash Chand Yadav, JM :**

The present appeal filed by the assessee is arising from the order of the Commissioner of Income-tax (Appeals) and it relates to assessment years 2013-2014, having DIN & Order No.ITBA/NFAC/S/250/2022-23/1048976604(1) dated 20.01.2023

2. The brief facts of the case are that the assessee is an individual and proprietor of Bhima Silver, return of income on 30.09.2013 declaring a total income of Rs.1,49,58,748. During the course of assessment proceedings, the Assessing Officer noticed that the assessee had made investment in 50,000 shares of Bhima Gold and Gems (Thodupuzha) Pvt. Ltd. valued at Rs.16,00,00,000. The AO further noted that the assessee

had neither received any exempt income nor has debited any expenditure in relation to exempt income in the profit and loss account. The AO was of the opinion that the investment will lead to the assessee earning exempt income in future, which attracts disallowance u/s.14A. Accordingly, the AO disallowed the entire interest of Rs.3,74,302 by invoking the provisions of sec.14A of the Act.

3. Aggrieved with the order of the AO, the assessee preferred an appeal before the learned CIT(A). The Id.CIT(A) upheld the view taken by the AO by observing that since the assessee has made investment in unlisted equity shares to earn profit, hence, there is no infirmity in the action of the AO in computing the disallowance as per rule 8D of the I.T. Rules.

4. Aggrieved with the order of the Id.CIT(A), the assessee has come up in appeal before the Tribunal. Before us, it was contended by the assessee that there is no exempt income. This contention is coming out from the order of the AO also, as evident from para 2.4 of the assessment order, wherein the AO has followed the judgment of the Special Bench in the case of **Cheminvest Ltd. v. ITO (2009) 121 ID 318 (Delhi) (SB)**. This judgment has already been overruled by the Hon'ble Delhi High Court vide judgment dated 2<sup>nd</sup> September, 2015 (ITA No.749 of 2014). Now the Hon'ble Supreme Court in the case of South Indian Bank Ltd. v CIT reported in AIRONLINE 2021 SC 706 has categorically held that wherein there is no exempt income then the provisions of sec.14A read with Rule 8D cannot be invoked. Therefore, respectfully following the judgment of the

Hon'ble Supreme Court (supra), we allow the appeal of the assessee.

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

Order pronounced on this 19<sup>th</sup> day of February, 2025.

**Sd/-**  
**(Inturi Rama Rao)**  
**ACCOUNTANT MEMBER**

**Sd/-**  
**(Prakash Chand Yadav)**  
**JUDICIAL MEMBER**

Cochin; Dated : 19<sup>th</sup> February, 2025.  
Devadas G\*

Copy to :

1. The Appellant.
2. The Respondent.
3. The CIT, Cochin.
4. The DR, ITAT, Cochin.
5. Guard File.

Asst.Registrar/ITAT, Cochin