

IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH KOLKATA
BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER &
SHRI SANJAY AWASTHI, ACCOUNTANT MEMBER

ITA No.2641/Kol/2024
Assessment Year: 2016-17

Jaideep Halwasiya 3 rd floor, P-24, India Exchange Place, Kolkata-700001. (PAN: AAWPH1706L)	Vs.	ACIT, Circle-10(1), Kolkata
(Appellant)		(Respondent)

Present for:

Appellant by : Shri S. K. Tulsiyan, Advocate & Ms. Lata Goyal, AR
Respondent by : Ms. Monalisa Pal Mukherjee, JCIT, Sr. DR

Date of Hearing : 22.05.2025

Date of Pronouncement : 22.05.2025

ORDER

Per Bench :

The captioned appeal filed by the assessee is against the order of the Ld. Commissioner of Income Tax (Appeals), Kolkata-27 [in short "CIT(A)"] vide order No. ITBA/APL/S/250/2024-25/1070686700(1) dated 27.11.2024 passed u/s. 250 of the Income Tax Act, 1961 (hereinafter referred to as the "Act") for the assessment year 2016-17.

2. Ms. Monalisa Pal Mukherjee, JCIT, Sr. DR represented on behalf of the revenue and Shri S. K. Tulsian, Advocate along with Ms. Lata Goyal, AR appeared on behalf of the assessee.

3. It was submitted by the Ld. AR that the only issue in the assessee's appeal was against the action of the disallowance made by invoking the provisions of section 14A r.w.r 8D of the I. T. Rules, 1962 (hereinafter referred to as the "Rules"). It was the submission that the assessee had earned exempt income to an extent of Rs.1,25,000/-. The assessee for the said amount had disallowed expenses u/s. 14A of the Act to an extent of Rs.3,13,450/-. It was the submission that Ld. CIT(A) has upheld enhancement of the disallowance to Rs.28,91,512/-. It was submitted by the ld. AR that in view of the decision of Hon'ble Supreme Court in the case of Caraf Builders & Construction Pvt. Ltd. reported in 112 taxman.com 322 (SC) the disallowance u/s. 14A read with rule 8D could not exceed the exempt income earned. It was the submission that the disallowance as made by the AO may be deleted.

4. In reply, the Ld. Sr. DR vehemently supported the orders of the lower authorities.

5. We have considered the rival submissions. A perusal of the decision of the Hon'ble Supreme Court in the case of Caraf Builders & Construction Pvt. Ltd. (supra) clearly shows that the Hon'ble Supreme Court has upheld the finding of the Hon'ble High Court wherein it has been specifically held that the disallowance u/s. 14A read with Rule 8D cannot exceed the exempt income for the relevant year. This being so, and respectfully following the principles laid down by the Hon'ble Supreme Court in the case of Caraf Builders & Construction Pvt. Ltd. (supra), the enhancement made by the Assessing Officer u/s. 14A of the Act stands deleted. However, the disallowance as made by the assessee to the extent of Rs.3,13,540/- shall remain.

6. In the result, the appeal of the assessee is allowed.

Order is dictated and pronounced in the open court.

Sd/-
(Sanjay Awasthi)
Accountant Member

Sd/-
(George Mathan)
Judicial Member

Dated: 22nd May, 2025

JD, Sr. P.S.

Copy to:

1. The Appellant: Shri Jaideep Halwasiya
2. The Respondent- ACIT, Circle-10(1), Kolkata.
3. CIT(A), Kolkata-27.
4. Pr. CIT
5. DR, ITAT, Kolkata Bench, Kolkata
6. Guard file.

True Copy

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata