

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“SMC” BENCH : BANGALORE**

BEFORE SHRI PRASHANT MAHARISHI, VICE PRESIDENT

ITA No.214/Bang/2025
Assessment year : 2017-18

R.C. Advisors Private Limited, 3, 5 <sup>th</sup> Floor, Prestige Sigma, Vittal Mallya Road, Bangalore – 560 001. <b>PAN: AAACV 6135C</b>	Vs.	The Assistant Commissioner of Income Tax, Circle 4(1)(1), Bangalore.
APPELLANT		RESPONDENT

Appellant by	:	Smt. Geetha Rani, Advocate
Respondent by	:	Shri Ganesh R. Ghale, Standing Counsel for Revenue.

Date of hearing	:	05.06.2025
Date of Pronouncement	:	30.06.2025

**ORDER**

1. This appeal is filed by R.C. Advisors Private Limited (the assessee/appellant) for the assessment year 2017-18 against the appellate order passed by the National Faceless Appeal Centre, Delhi (NFAC) [Id. CIT(A)] dated 13.12.2024 wherein the appeal filed by the assessee against the re-assessment order passed u/s. 147 r.w.s. 144B of the Income-tax Act, 1961 [the Act] dated 26.3.2022 by the National

Faceless Assessment Centre, Delhi [Id. AO], was dismissed on the ground of non-prosecution by the assessee.

2. The assessee is aggrieved and has filed several grounds of appeal, but the main ground of appeal is disallowance u/s. 14A of the Act confirmed by the Id. CIT(A) by dismissing the appeal.
3. The brief facts of the case show that assessee is a private limited company engaged in the business of accounting, etc. and management consultancy filed its return of income on 24.10.2017 at a loss of Rs.9,91,035. This case was selected for scrutiny and assessment u/s 143 (3) was completed on 27.12.2019 at the returned income.
4. On perusal of the assessment records, the AO found that assessee made investment in various equity funds at the beginning and close of the year and the assessee has not disallowed on the average investment of Rs.45,68,579 u/s. 14A of The Act, which has escaped assessment.
5. Thus, assessment has been reopened u/s. 147 and notice u/s. 148 was issued on 31.3.2021. Assessee filed return of income on 30.6.2021, but same was treated as invalid as assessee failed to verify the same. Subsequently notice u/s. 142(1) was issued wherein assessee replied that it has already filed return of income which is also e-verified and therefore same can be treated as return of income. The AO issued a show cause notice as to why disallowance u/s. 14A cannot be made which was not replied by the assessee and therefore order u/s. 144 was

passed making disallowance u/s. 14A of the Act of Rs.45,68,579 determining the total income of assessee at Rs.35,77,544.

6. Assessee aggrieved with the assessment order preferred an appeal before the Id. CIT(A). Assessee has given a detailed statement of facts that addition u/s. 14A is not valid. The Id. CIT(A) issued 4 notices, but same were not complied with and therefore the Id. CIT(A) passed an order dismissing the appeal of the assessee for non-prosecution. Assessee aggrieved has preferred this appeal.
7. The claim of the assessee is that reopening is invalid as (i) it is on reappraisal of the same facts, (ii) Further disallowance made by the Id. AO u/s. 14A is also not correct on several counts. It was also submitted that Id. CIT(A) failed to consider the statement of facts filed in detail running into several pages raising all the contentions, which was not at all considered. Ld CIT (A) dismissed the appeal for non-prosecution. The Id. AR submitted that the CIT(A) does not have any such power.
8. The Id. DR vehemently contested that as the assessee did not prefer to appear on any of the 4 opportunities, the order of the Id. CIT(A) is correct.
9. I have carefully considered the rival contentions and perused the orders of the Id. lower authorities. I find that the assessee has filed an appeal before the Id. CIT(A) wherein in para 5 of his order starting from page 3 to 13, assessee has raised all the contentions which it could have

raised before him. The ld. CIT(A) without considering any of the explanation of the assessee held that assessee has not availed any of the opportunities and therefore appeal was dismissed for non-prosecution. I find that once the appeal is filed by the assessee the ld. CIT(A) is duty bound to make an enquiry and also to seek further enquiry or report from the ld. AO. He must give an order on the points for determination and decision on each of the point with reasons in support of the order. Therefore, it is apparent that the ld. CIT(A) has to decide the grounds of appeal raised before him and he cannot dismiss the appeal of the assessee for non-prosecution. Such is also the mandate of the Hon'ble Bombay High Court in the case of *CIT(Central), Nagpur v. Premkumar Arjundas Luthra (HUF)* [2016] 69 taxmann.com 407 (Bom). Accordingly, the order passed by the ld. AO cannot be sustained, hence it is reversed.

10. The second issue is that the assessment order clearly shows that original assessment u/s. 143(3) was passed on 27.12.2019 where the return of income filed by the assessee was accepted. The reason for reopening clearly states that “*On perusal of the assessment records*” ld AO found that assessee did not make any disallowance u/s 14A of the Act. Therefore, it is apparent that reassessment notice has been issued on appreciation of the same material which was available before the ld. AO during original assessment. It is true that there is no reference of any tangible material. In the absence of any tangible material, reopening of the assessment already concluded could not have been done. Such is the mandate of the decision of Hon'ble Supreme

Court in *CIT v. Kelvinator of India Ltd.* [2010] 320 ITR 561 wherein it is held that the AO has power to reopen, provided there is tangible material to come to the conclusion that there is escapement of income from assessment. Such reasons must have also live link with the formation of the belief. Merely reappraisal of the same material which amounts to review and not reassessment. In view of the above facts, I quash the reassessment order passed by the Id. AO also.

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

Pronounced in the open court on this 30<sup>th</sup> day of June, 2025.

Sd/-

( PRASHANT MAHARISHI )  
VICE PRESIDENT

Bangalore,  
Dated, the 30<sup>th</sup> June, 2025.

*/Desai S Murthy /*

Copy to:

1. Appellant
2. Respondent
3. Pr. CIT
4. CIT(A)
5. DR, ITAT, Bangalore.

By order

Assistant Registrar  
ITAT, Bangalore.