

**IN THE INCOME TAX APPELLATE TRIBUNAL  
COCHIN BENCH****BEFORE SHRI INTURI RAMA RAO, AM  
AND SONJOY SARMA, JM****ITA No. 122/Coch/2025  
Assessment Year:2015-16**

Dream Flower Housing Projects Private Limited ..... Appellant  
49/1295E, Ponckkara Road, Edapally PO  
Kochi-682024.  
PAN: AACCD4362K

vs.

DCIT ..... Respondent  
Corporate Circle-1(1),  
Kochi, Kerala.

Appellant by: Shri G. Surendranath Rao, CA  
Respondent by: Smt. Leena Lal, Sr. D.R.

Date of Hearing: 02.06.2025  
Date of Pronouncement: 30.06.2025

**ORDER****Per: Inturi Rama Rao, AM**

This appeal filed by the assessee company is directed against the order of the Learned Addl / Joint Commissioner of Income Tax (Appeals), Aurangabad (in short "CIT(A)"), dated 13/01/2025 for Assessment Year (AY) 2015-16.

2. Briefly the facts of the case are that the assessee is a company incorporated under the provisions of Companies Act, 1956. It is engaged in the business of builders of residential apartments. The Return of Income for the AY 2015-16 was filed on 09/08/2016 declaring a total income of Rs. 67,98,772/-. Against the said return of income, the assessment was completed by the Deputy Commissioner of Income Tax, Corporate Circle-1(1), Kochi (hereinafter referred to as "AO") vide order dated 29/12/2017 passed U/s. 143(3) of the Income Tax Act, 1961 (in short "the Act") at a total income of Rs. 69,92,530/-. While doing so, the AO made a disallowance of Rs. 53,286/- U/s. 14A and Rs. 69,92,531/- U/s. 40(a)(ia) of the Act. The factual background facts leading to the above addition are as under.

3. During the course of the assessment proceedings, the AO found that the appellant had made investments in the Equity Shares of certain companies therefore, the AO was of the opinion that the disallowance U/s. 14A of the Act is required to be made, notwithstanding the fact that there was no exempt income and no expenditure was incurred to earn the exempt income placing reliance on the Central Board of Direct Taxes (in short "CBDT") Circular No. 5/2014, dated 11/02/2014.

4. Being aggrieved, an appeal was filed before the CIT(A), who vide the impugned order while setting aside the issue of addition U/s. 14A of the Act to the file of the AO, however, confirmed the disallowance U/s. 14A of the Act.

5. Being aggrieved, the appellant is in appeal before us in the present appeal.

6. The issue that arises for our consideration is whether the CIT(A) was justified in confirming the disallowance U/s. 14A of the Act even in the absence of any exempt income. Now, it is a settled position of law that in the absence of exempt income, no disallowance U/s. 14A of the Act can be made. Reliance in this regard is placed on the following judgments:

- (1) CIT vs. Tamilnadu Road Development Company Ltd (2021) 435 ITR 323 (Mad.)
- (2) Tamil Nadu Development Co Ltd vs. DCIT, 436 ITR 298
- (3) PCIT vs. Nam Estates P Ltd, 434 ITR 154

7. Respectfully following the ratio of the above decisions, we hold that the AO was not justified in making the disallowance U/s. 14A in the absence of exempt income.

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

Order pronounced in the open court on 30<sup>th</sup> June, 2025.

Sd/-  
**(SONJOY SARMA)**  
**JUDICIAL MEMBER**

Sd/-  
**(INTURI RAMA RAO)**  
**ACCOUNTANT MEMBER**

Cochin, Dated: 30<sup>th</sup> June, 2025  
*okk sps*

Copy to:

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

Assistant Registrar  
ITAT, Cochin