

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH, F: NEW DELHI**

**BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER  
AND  
SHRI BRAJESH KUMAR SINGH, ACCOUNTANT MEMBER**

**ITA No.7556/Del/2018  
[Assessment Year: 2012-13]**

DCIT, Circle-21(1), Room No. 202 B, 2 <sup>nd</sup> Floor, C.R. Building, I.P. Estate, New Delhi	Vs	M/s Religare Securities Ltd., 2 <sup>nd</sup> floor, Rajlok Building, 24, Nehru Place, New Delhi-110019.
<b>PAN- AAACF1952D</b>		
Revenue		Assessee

Assessee by	Shri Rohit Jain, Adv. & Ms. Soumya Jain, CA
Revenue by	Ms. Monika Singh, CIT(DR)

<b>Date of Hearing</b>	<b>24.09.2025</b>
<b>Date of Pronouncement</b>	<b>22.12.2025</b>

**ORDER**

**PER BRAJESH KUMAR SINGH, AM,**

This appeal has been preferred by the Revenue against the order of the Ld. Commissioner of Income Tax (Appeals)-7, New Delhi [hereinafter referred to as the 'Ld. CIT(A)] dated 10.09.2018 pertaining to Assessment Year 2012-13, arising out of Assessment order dated 31.03.2015 passed under Section 143(3) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') by the DCIT, Circle-21(1), New Delhi (hereinafter referred to as the AO).

2. Return declaring income of (-) Rs. 54,55,21,456/- was filed on 27.11.2012 by the assessee. The case was selected for scrutiny and notice u/s 143(2) was issued and duly served upon the assessee company.

2.1 During the year, the assessee company had declared dividend income of Rs.10,00,000/- which it claimed as exempt income. The assessee company had *suo-moto* offered a disallowance u/s 14A amounting Rs.7,67,24,357/- in the original return which was revised in the revised return of income to Rs.5,36,73,263/-. The assessee company had invested in equity and preference shares as well as in trade investments and mutual funds. The income from trade investments and mutual funds was offered as business income and taxed under the head PGBP and therefore the same was not considered for the purpose of calculation of disallowance U/s 14A.

2.2. Thereafter, the AO in para no. 2.2 of its order recorded his satisfaction for making disallowance u/s 14A of the Act, in accordance with Rule 8D of the Income Tax Rules, 1962. Accordingly, the AO calculated the total disallowance amounting to Rs. 9,65,97,368/- as per the details in para no. 2.3 to 2.5 of his order. Further, the AO noted that the assessee company had *suo- moto* disallowance a sum of Rs. 5,36,73,263/- in the revised computation of income towards disallowance u/s 14A and therefore restricted the disallowance at Rs. 4,29,24,104/- (Rs. 9,65,97,368/- - Rs. 5,36,73,263/-).

3. Aggrieved with the said disallowance the assessee filed an appeal before the Ld. CIT(A).

4. The Ld. CIT(A) agreed with the submission of the assessee in view of the decisions of the Co-ordinate Bench of ITAT Delhi in the case of M/s Ganga Kaveri Credit & Holding (P) Ltd. vs. ACIT, Circle 12(1), New Delhi in ITA No. 919/Del/2024 and of the Hon'ble Delhi High Court in the case of the Joint Investment (P) Ltd., 372 ITR 694, wherein, it has been held that expenditure on account of tax exempt income could not exceed the amount of exempt income and deleted the above disallowance of Rs. 4,29,24,104/-. The relevant extract of the findings of the Ld. CIT(A) in para no. 4.2. and 4.3 of his order are reproduced as under:

*" 4.2 I have carefully considered the order passed by the AO and the submissions made by the appellant. It is evident the AO has computed additional disallowance of Rs.4,29,24,104/- u/s 14A during 143(3) proceedings. The Hon'ble Delhi Bench of the ITAT in the case of M/s Ganga Kaveri Credit & Holding (P) Ltd. vs. ACIT, Circle 12(1), New Delhi in ITA No. 919/Del/2014 has held that disallowance u/s 14A cannot exceed the amount of dividend income. The Hon'ble Delhi High Court in the case of Joint Investment (P) Ltd., 372 ITR 694 has held that expenditure on account of tax exempt income cannot exceed the amount of exempt income. The Hon'ble Court held as under:*

*".....in the opinion of this Court, important anomaly which we cannot be unmindful is that whereas the entire tax exempt income is Rs.48,90,000/-, the disallowance ultimately directed works out to nearly 110% of that sum, i.e., Rs.52,56,197/-. By no stretch of imagination can Section 14A or Rule 8D be interpreted so as to mean that the entire tax exempt income is to be disallowed. The window for disallowance is indicated in Section 14A, and is only to the extent of disallowing expenditure "incurred by the assessee in relation to the tax exempt income". This proportion or portion of the tax exempt income surely cannot swallow the entire amount as has happened in this case."*

*4.3. In the case of Appellant, it is seen that provisions of Section 14A of the Act have been rightly invoked to disallow expenditure attributable to exempt income earned. However, it is seen that the appellant has declared dividend income of Rs. 10,00,000/- which is claimed as exempt. The appellant has made suo-moto disallowance u/s 14A of Rs.5,36,73,263/- in the revised return. Since the disallowance has already been made in the return of income as additional disallowance during 143(3) proceedings is not mandated. Therefore, additional disallowance of Rs.4,29,24,104/- made by the AO is directed to be deleted. This ground of appeal is ruled in favour of the appellant.”*

5. Aggrieved with the said order, the Revenue is in appeal before us, on the following ground of appeal:

*“ 1. That on facts and circumstances of the case, the Ld. CIT(A) has erred in deleting the addition of Rs. 4,29,24,104/- made by the AO u/s 14A of the I.T. Act, 1961, read with Rule 8d of I.T. Rules.”*

6. During the hearing before us, the Ld. AR supported and relied upon the order of the Ld. CIT(A). The Ld. CIT(DR) filed a written submission in support of the ground of appeal but could not bring any decisions contrary to the decision relied upon by the Ld. CIT(A) for deleting the said addition.

7. We have heard both the parties and perused the material available on record. In the given facts of the case, we agree with the finding of the Ld. CIT(A) and there is no justification for interfering with the same. Therefore, ground no. 1 of the appeal of the Revenue is dismissed.

8. Further, the AO asked the assessee to furnish justification and basis of support services of Rs. 41,22,60,918/- by various group companies and allocation of expenses amounting to Rs. 44,67,67,078/- charged by the Religare Enterprises

Ltd. (REL) from the assessee company. The assessee filed its reply before the AO and the relevant extract of the Assessing Officer's query, the reply of the assessee and thereafter, the relevant extract of the discussion made by the Assessing Officer are reproduced as under:

**" 3. Disallowance out of Support Services and Reimbursement of Expenses:**

*The assessee was asked to furnish justification & basis of support services of Rs.41,22,60,918/-by various group companies and allocation of expenses Rs.44,67,67,078/- charged by Religare Enterprises Ltd The assessee has furnished the following reply:*

*Under point no. 5 of the questionnaire your goodself have asked us to explain the nature of support services expenses, justify the arm's length price and the TDS thereon. In addition to this, under point no. 3 your goodself have asked to explain nature of expenses which as per Appendix F of the Tax Audit Report have been allocated to the Company by Religare Enterprises Limited ("REL") or reimbursed by the Company to REL.*

*In this regard, we wish to submit that the amount reported in Appendix F of the Tax Audit Report is inter alia the aggregate of amount charged by REL to the Company on account of the following expenses:*

<i>Sr. No.</i>	<i>Particulars</i>	<i>Amount (Rs.)</i>	<i>Remarks</i>
<i>1</i>	<i>Support service fee</i>	<i>153,373,982</i>	<i>We are giving below a detailed note on the support services fee that the Company has to REL below in compliance with your question on support services related expenses that you have asked under point no. 5. Refer Para A.1 and A.1.1</i>
<i>2</i>	<i>Expenses directly related to the provision of support services fee</i>	<i>127,927,113</i>	
<i>3</i>	<i>Rent</i>	<i>130,983,398</i>	<i>In this regard please refer to our submission dated March 19, 2015 in which we have given details of rent paid by the Company during the subject</i>

			<i>AY and which includes details related to rent paid to REL</i>
	<i>Total</i>	<i>412,260,918</i>	

*The assessee has tried to explain the justification for charging of support services through a detailed reply of the assessee giving justification of the above expense given in detail has been considered but not found acceptable. It is noticed that the assessee company has not furnished the basis of computing the support services value and also not furnished the allocation sheet of entire expense and on what basis the same has been shared with other group of companies and the basis of same.*

.....xxx.....

*7.6 In the case of Eaton Industries Manufacturing GmbH v. Deputy Director of Income-tax (International Taxation-1), Pune [2015] 53 taxmann.com 394 as decided by Pune ITAT, the facts are that the assessee company was incorporated on 01-04-2005 and has a branch office in India. The Branch office is engaged in the business of identifying and evaluating raw material suppliers, providing quality assurance services to Eatori Group to ensure that quality goods are procured, to provide services in connection with collation and shipment of goods and to coordinate timely payments to Indian suppliers. It filed its return of income on 26-09-2009 declaring total income at Rs.2,57,91,567/-During the course of assessment proceedings, the AO observed that assessee has debited Rs 1,35,22,144/-under the head corporate cost allocation. The AO asked the assessee to submit the basis of 'allocation of corporate cost and the evidences for receipt of actual services. The assessee filed certain details justifying such claim. However, the AO noted that the assessee has neither produced the basis of allocation nor produced the documentary evidences for the receipt of actual services. He, therefore, asked the assessee to produce the above information and asked to show cause as to why the above expenditure shall not be disallowed u/s 37(1). The assessee only explained orally before the AO the basis of allocation. However, since it did not produce any documentary evidence for the same as called for by the AO, the AO held that assessee failed to prove the actual services received for incurring the expenditure. According to him, the onus is on the assessee to prove that the expenses debited to the profit and loss account are used wholly and exclusively for the purpose of business and for the expenses incurred, it received actual services, the ITAT held as below:*

*These evidences go to the root of the matter for adjudication of the allowability of corporate cost of allocation expenses, we deem it proper to restore the issue to the file of the AO with a direction to give one more opportunity to the assessee to explain his case.”*

9. As noted above, the AO did not accept the explanation of the assessee and disallowed a sum of Rs. 10,30,65,230/- being 25% the total expenses of Rs. 41,22,60,918/-. The relevant discussion by the AO in para no. 7.7 of his order is reproduced as under:

*“ 7.7 In the case, the assessee company failed to provide a cost allocation key. Further, no list of expenses reimbursed by the company was provided. In some of the cases of reimbursement even TDS was not deducted. Considering the facts of the case, I fit it deem and proper that in respect of entire expenditure paid to the group concern on account of cost sharing and reimbursement expenses justification of allocation of expenses and complete details in this regard are not explained properly and the test of reasonableness u/s 40A(2)(b) as not been discharged by the assessee company. I, therefore, considering the facts of the case disallow an amount of Rs.10,30,65,230/- being 25% of the total expenses of Rs. 412,260,918/- debited under this head and add back the same to the income of the assessee.”*

10. Aggrieved with the said order, the assessee filed an appeal before the Ld. CIT(A), who relying upon the decision of his predecessor vide order dated 28.02.2017 in A. No. 288/CIT(A)-7/Del/15-16 For A.Y. 2012-13 in the case of M/s Religare Arts Initiative Ltd. deleted the addition of Rs. 10,30,65,230/-.

11. In deciding so the Ld. CIT(A) also called for a remand report from the AO who objected to the filing of the additional documents before the Ld. CIT(A). The relevant discussion by the Ld. CIT(A) in considering the remand report of the Assessing Officer and his reliance on the order of his predecessor in deleting the said addition in para no. 5.2 to 5.5 of his order are reproduced as under:

*“ 5.2. On this issue Remand Report was called for vide letter dated 28.09.2016 as under:*

*"In appellate proceedings in the captioned case, the appellant has taken the following ground of appeal relating to disallowance of Rs.10,30,65,230/ being 25% of the total expenses on account of support services of fee, Rent and incidental expenses aggregating to Rs. 41,22,84,493/-*

*"Grounds of appeal related to adhoc disallowance of Rs. 103,065,230/-*

*3.1 That on facts and circumstances of the case and in law, the disallowance of Rs. 103,065,230/- made by the "AQ is arbitrary, bad in law and liable to be deleted*

*3.2 That on facts and circumstances of the case and in law, the AO while making disallowance of Rs. 103,065,230/-has alleged that the Appellant has not explained the basis of calculation of rent, expenses incidental to sub-leased premises and support service charges and has not given the list of expenses which have been reimbursed which is baseless and factually incorrect*

*3.3 That on facts and circumstances of the case and in law, the AO while invoking the provisions of section 404(2)(b) of the Act has erroneously cast a responsibility on the Appellant to prove the reasonableness of support charges paid by it to go group companies."*

*2. The AO has added the impugned amount as under:*

*"1. The assessee company failed to provide a cost allocation key. Further, no list of expenses reimbursed by the company was provided. In some of the cases of reimbursement even TDS was not deducted. Considering the facts of the case, I fit it deem and proper that in respect of entire expenditure paid to the group concern on account of cost sharing and reimbursement expenses justification of allocation of expenses and complete details in this regard are not explained properly and the test of reasonableness u/s 404(2)(b) has not been discharged by the assessee company. I, therefore, considering the facts of the case disallow and amount of Rs. 10,30,65,230/- being 25% of the total expenses of Rs. 412,260,918/-debited under this head and add back the same to the income of the assessee. (Para 7.7 of the assessment order)*

*3. The appellant has filed written submission vide letter dt. 26.09.2016. In the said submission the appellant has contended that it has filed all the necessary details with regard to support services fee and expenses reimbursed with the AO during the assessment proceedings vide letters dt. 19.02.2015 & 24.03.2015 The Ld. AR has also stated in the said letters complete details related to the nature of the expense, justification and purpose for which it has been incurred the agreement/commercial understanding based on which the Appellant has paid the amount to the party, the basis on which the amount has been charged has been calculated by the party and the details of tax deducted thereon by the appellant was furnished Copy of submission furnished before the AO dt. 24.03.2015 and 18/19 02 2015 alongwith submissions dt. 26.09.2016 is enclosed.*

*4. You are directed to examine the submissions with reference to the assessment records and confirm whether the said details/records were filed before the AO during the assessment proceedings Copy of the submissions filed, if any, may also be forwarded alongwith your report.*

5. Your report in respect to the above may be furnished within 2 weeks of issue of this letter

5.3 The AO furnished his report vide letter dated 08.03.2018 as under

2. With reference to the subject cried above it is submitted that your goodself has requested to examine the submission with reference to the assessment records and confirm whether the details/records filled by the assessee were filed before the AO during the assessment proceedings

The AO in the assessment order has disallowed an amount of Rs. 10,30,65,230/- being 25% of the total expenses of Rs 41,22,60,918/- on account of support services expenses. During the course of assessment proceedings the AD vide point no. 13 of the note sheet dated 10.03.2015 (copy enclosed) has asked the assessee to justify expenses on repair & maintenance, legal & professional support services and filing fee alongwith copies of individual bills above 1 lakhs However the assessee didn't provide the complete details. The assessee failed to produce the cost allocation key and also failed to produce the list of expenses reimbursed by the company. In some of the cases of reimbursement the TDS was also not deductest Hence, the AO disallowed the entire expenditure paid to the group concern op account of cost sharing and reimbursement expenses as the assessee couldn't justify the allocation and failed to provide complete details.

Further, the assessment record has been examined and found that no such details as contended by the assessee vide its submission dated 26.09 2016 have been submitted by the assessee during the course of assessment proceeding and in lack of necessary details the AO has correctly disallowed the said amount of Rs. 10,30,65,230/-.

Further, as per Rule 46A of the IT Rules, 1962, the assessee is not entitled to furnish any additional evidence before Ld. CIT(A) except in following circumstances.

- a) Where the AO has refused to admit evidence which ought to have been admitted
- b) Where the appellant was prevented by sufficient cause from producing the evidence which he was called upon to produce by the AO. Or
- c) Where the appellant was prevented by sufficient cause from producing before the AO any evidence which is relevant to any ground of appeal. Or
- d) Where the AO has made the order appealed against without giving sufficient opportunity to the assessee to adduce evidence relevant any ground of appeal

However, in the present case, nothing of this sort has happened Also it is evident from the assessment order itself that the assessee in spite of being given sufficient opportunity of being heard the assessee couldn't furnish the complete details as called for by the A.O. Therefore, the assessee failed to establish that it was prevented by sufficient cause to produce the additional evidence at the time of assessment proceedings Hence, additional evidence furnished by the assessee before your goodself are not liable to be admitted under Rule 46A of the IT Rules, 1962 Hence, the additional evidence submitted by the assessee should be rejected."

5.4 It is noted that appeal was instituted on similar facts in the appellant's group cases on this ground and the issue has been decided by my predecessor in favour of the appellant The Ld. CIT(A) vide order dated 28.02 2017 in A No. 288/CIT(A)-7/Del/15-16 for A. Y. 2012-13 in the case of M/s Religare Arts Initiative Ltd decided as under.

5.2 The AO disallowed 25% of Rs.5,24,93,310/ on the ground that the appellant company did not furnish justification and basis of sharing of the expenditure with group companies. He was of the view that the appellant company had failed to provide a cost allocation fee for the expenditure claimed. Further, no list of expenses reimbursed by the company was provided and in some cases of reimbursement, even TDS was not deducted. He therefore, held that in respect of entire expenditure paid to the group concern on account of cost sharing and reimbursement of expenses, justification of allocation of expenses was not explained properly Further, since the appellant company had not discharged the test of reasonableness u/s 40(A)(2)(b), he disallowed an amount of Rs.1,31,23,328/- being 25% of the expenses of Rs 5,24,93,310/- debited under this head. The Ld AR has contended that the AO has erroneously considered the rental expenses as support service expense and has vehemently argued that the appellant company had not incurred any support service expenses. He further submitted that appellant had furnished all details regarding the rent paid to the AO vide letter dated 09.03.2015 copy of which was furnished in appellate proceedings. Tabular presentation of the same is included in the submission of the Ld. AR reproduced above. The Ld. AR also contended that TDS was deducted u/s 194 I of the Act on the entire rental payment to the respective parties. Further, except for payment of rent of Rs 49,821/- to Religare Enterprises Ltd, which is a holding company of the appellant, the rental expenses are not governed by Section 40(a)(2)(b) of the Act and therefore, disallowance of 25% of rental payment made by the AO, is not in order.

5.3. I have carefully considered the order and the submissions filed by the AR of the appellant. It is evident that the AO has erroneously treated the rent payment as part of sharing of expenses with group companies of the appellant The appellant has not claimed the impugned expenditure as support services and reimbursement of expenses to group companies. Rent payments are made to various vendors as per lease deed and appropriate TDS has been deducted on the said payments. In so far as, AO's finding regarding applicability of 40(a)(2)(b) provisions is concerned, the Ld. AR has rightly contended that the said

5.4. Section 40A(2)(b) of the Act governs allowance of such expenditure to related parties.

(2)(a) Where the assessee incurs any expenditure in respect of which payment has been or is to be made to any person referred to in clause (b) of this sub-section, and the Assessing Officer is of opinion that such expenditure is excessive or unreasonable having regard to the fair market value of the goods, services or facilities for which the payment is made or the legitimate needs of the business or profession of the assessee or the benefit derived by or accruing to him therefrom, so much of the expenditure as is so considered by him to be excessive or unreasonable shall not be allowed as a deduction"

*5.5 In terms of the aforesaid section, the AO before while invoking provisions of this section has to clearly state that the expenditure incurred is excessive or unreasonable having regard to the fair market value of the goods, services or facilities for the which payment is made or the legitimate needs of the business or profession of the appellant.*

*5.6 The AO has merely stated that the appellant has not proved that the expenses incurred on account of rent payment to the group concerns are not discharged properly. This cannot be sufficient ground for making disallowance u/s 40A(2)(b) of the Act. The genuineness of the payment is not doubted. In effect, there is no finding to conclusively establish that the payment made to the parties was excessive or unreasonable with reference to the fair market value of the services received. This essential precondition for invoking provision for section 40A(2)(b) is not satisfied on the facts of the case. In view thereof, the addition of Rs.1,31,23,328/- cannot be sustained and is therefore, deleted. The ground of appeal is ruled in favour of the appellant.*

*5.5. Since the facts are similar, following the decision of the CIT(A), relief was allowed to the appellant in the appellant's group case for the A.Y. 2012-13. In the present appeal, as the facts are similar, following the order of CIT(Appels) on this issue, disallowance of Rs. 10,30,65,230/- on account of support service expenses made by the AO, is deleted. Therefore, this ground of appeal is ruled in favour of the appellant."*

*(emphasis supplied by us)*

12. Aggrieved with the said order, the Revenue has filed an appeal before us, on the following ground of appeal:

*"2. That on facts and circumstances of the case, the Ld. CIT(A) has erred in deleting the disallowance of Rs. 10,30,65,230/- on account of reimbursement/support services charges, without determining the fair market value of the services rendered and what is claimed by the assessee."*

13. During the hearing before us, the Ld. CIT(DR) relied upon the order of the AO and submitted written submission, and the relevant extract of which is reproduced as under:

**"3. Ad-hoc Disallowance of Support Service Fee (Ground No.2)**  
*Statutory Context* Section 40A(2)(b) empowers the AO to disallow expenditure to related parties to the extent it is "excessive or unreasonable" having regard to fair market value and benefit derived. The onus is on the AO to bring comparable data establishing excessiveness.

**AO's Findings (AO Order Paras 3-7.7, pp. 3-9)** Of Rs. 41.23 cr paid to REL (support fees ₹ 15.33 cr; cost recoveries 12.79 cr; rent ₹ 13.09 cr), AO held 25% excessive without any comparable rates or market data and disallowed ₹ 10.31 cr. **CIT(A)'s Findings (Paras 5.1-5.5, pp. 16-27)** Deleted ad-hoc disallowance relying on co-ordinate bench order in Religare Arts Initiative Ltd holding no excessiveness found.

**Rvenue's Arguments**

**Absence of Market Testing Warrants Reinstatement** Departments across jurisdictions have held that cross-charges to group cannot be lightly accepted, where AO demonstrates absence of competitive bidding or benchmarking, disallowance is justified (CIT v. Gopala Polyplast Ltd., ITA No. 265/2009 (Guj.))

**Consistency in Group Policy Does Not Immunize Excessive Charges**

The fact that REL recorded fee as income does not neutralize revenue loss; intra-group charge must reflect market value, not just revenue-neutral accounting [CIT v. GlaxoSmithKline Asia Pvt. Ltd., 236 CTR 113 (SC); CIT v. Enviro Control Associated P. Ltd., 225 Taxman 56 (Guj.)].

**No Comparative Evidence Provided by Assessee** The assessee failed to furnish any market comparables, cost break-up for mark-up, or independent valuation; reliance on internal policy alone is insufficient [Modi Xerox Ltd., 199 Taxman 271 (SC)].

**Rent Payment Requires Arm's Length Benchmarking** Rent of 13.09 cr for Noida, Mumbai, Pune premises must be tested against prevailing market rates; absence of rent comparables justifies AO's 25% estimate [ITO v. Karnavati Petrochem Pvt. Ltd., ITA No. 2282/Ahd/2012).

**4. Conclusion**

4.1 The CIT(A) Order erred in law and fact in deleting legitimate additions under sections 14A and 40A(2)(b).”

(emphasis supplied by us)

14. On the other hand, the Ld. AR filed a written submission, the relevant extract of which is reproduced as under:

“Assessee’s submission

During the previous year relevant to assessment year 2012-13, the appellant had made the following payment to Religare Enterprises Ltd for support services provided by it to the assessee:

<b>S. No.</b>	<b>Particulars</b>	<b>Amount(Rs.)</b>
1	Support Service Fee	15,33,73,982/-
2	Recovery of expenses directly incidental to provision of support services	12,79,27,113/-
3	Rent paid to REL	13,09,83,398/-
	<b>Total</b>	<b>41,22,84,493/-</b>

*The assessing officer however, on mere conjectures and surmises and without considering the detailed submissions made by the appellant, made an ad-hoc disallowance of 25% of the support service fee paid by the assessee to REL under section 40A(2)(b) of the Act on the ground that the assessee failed to explain the reasonableness of the payment made on account of support service by the provided by the group companies holding that (refer page 8 of AO Order)*

- *justification for incurring such expenditure was not explained properly by the assessee,*
- *the assessee failed to furnish cost allocation key and list of expenses reimbursed by assessee;*
- *and the assessee failed to deduct tax at source on certain expenses reimbursed.*

*On appeal, the CIT(A) deleted the disallowance made by the assessing officer by following the order passed in the case of Religare Arts Initiative Ltd, viz., another group company of the assessee, for assessment year 2012-13, wherein the disallowance was deleted after categorically observing that there was no finding by the assessing officer that the payments made were excessive or unreasonable with reference to the fair market value of the services thereby not satisfying the essential condition for invoking section 40A(2) of the Act (refer page 26-27 of CIT(A) Order).*

*Aggrieved, the department is in appeal before your Honours.*

***Submissions:***

*The nature of service received from REL is explained as under:*

*Re: Support service fee and recovery of expenses made by REL*

*Religare Enterprises Ltd is a core investment and finance company and is the ultimate holding company of the Religare Group of companies. Being the holding company, REL's only business, starting from assessment year 2008-09 till the year*

*under consideration (30th September, 2012), was providing the following support service functions to all its subsidiary companies:*

- *Central leadership*
- *Finance and accounts*
- *Human resources*
- *Back office operations*
- *Treasury*
- *Corporate and secretarial affairs*

*The aforesaid activities were, it is submitted, centralized in REL. The rationale behind centralization of the said functions within the Religare group was to ensure that all operating companies focused wholly and solely on their business operations. Had each of the subsidiary company had its own division for support functions, it would have resulted not only in draining the group's resources resulting in lower taxable profit for it but also in underutilization of employees working in such functions in all companies.*

*Accordingly, to ensure that efforts are not repeated, the administration of day-to-day affairs of all the subsidiaries, including the appellant, such as business strategy, finance, accounts and taxation, HR, IT systems, legal, compliance and secretarial were centralized at REL's level and were not replicated in any of its subsidiary companies. For discharging the aforesaid functions, REL had employed 301 employees who were engaged in providing support service functions to the subsidiary companies, including the appellant. Pertinently, since the support services were being provided by REL, the appellant had employed staff only for carrying out the operating business activities. The appellant, it will be appreciated, did not have employees for carrying out any administrative/ support service functions.*

*The aforesaid support services were being provided by REL year-on-year based on an internal policy document formulated, which provided the basis of cross-charging the support service fee to the group companies and recovering the cost directly related to provision of such support service from the group companies, as under (refer pgs 178-108 and 181-191 of PB Vol 2):*

- *Support Service fees - the cost of the support services provided to the group companies is cross-charged/allocation on the basis of the turnover of each entity for the last year, plus mark-up of 20%;*
- *Expenses incurred for provision of support service fees - the expenses incurred by REL, for provision of the support services is recovered from the group companies on the basis of the turnover of each company for the last year, without any mark-up;*
- *The total share to be charged from each entity is restricted at 40% of the total allocable cost/ fees.*

*In accordance with the aforesaid policy, during the year under consideration, for providing support services to the assessee, the following payment was made by the assessee to REL:*

- *Fee for provision of support services Rs.15,33,73982;*
- *Expenses for provision of support services recovered from the assessee-Rs. 12,79,27113*

*In this regard, it is submitted that the rationale behind payment of the aforesaid support service fee, as discussed supra, was to ensure that the assessee company can focus on its business operations while the support functions are being taken care of by REL. The support functions were undertaken by REL on behalf of all the group/subsidiary companies, including the assessee, were for routine support activities which are essential for smooth running of the business of the assessee. Had REL not been providing the aforesaid services, the assessee would have had to employ more staff to undertake the aforesaid functions, which would result in increased cost of operations for the assessee.*

*Pertinently, the aforesaid support service fee charged from the group companies, including the assessee, has been reported as income by REL in its financial statements.*

*Re: Rent paid to REL*

*In addition to the aforesaid services, the appellant had also made a payment of Rs. 13,09,83,398 to REL, which represented the rent paid by the assessee to REL for letting out of office spaces owned by it at Noida, Mumbai and Pune.*

*On a perusal of the aforesaid facts, it will be appreciated that the payment for services made to the group entities were in respect of regular business functions which were essential for smooth day-to-day functioning of any company. It was only to reduce cost and enjoy benefit of synergy among the group that the provisions of support services were centralized rather than each company employing their own resources for similar business functions, thereby leading to overall increase in the group operating cost as a whole.*

*The assessing officer, merely on conjectures and surmises, has held that the entire expenditure incurred on support service payment cannot be considered reasonable and accordingly disallowed 25% of the expenditure incurred.*

*In this regard, it is respectfully submitted that the assessing officer erred in not considering the following corroborative evidence placed on record by the assessee to demonstrate that the services were rendered for the smooth functioning of the business of the assessee:*

<i>Particulars submitted before the AO and CIT(A)</i>	<i>Page no. of PB vol 2</i>
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<i>List of employees of the assessee evidencing that all employees of the assessee were involved in core business functions and the assessee did not have employees for business support functions;</i>	285- 289
<i>List of employees working in support functions of REL for providing support services to the group companies</i>	192- 284
<i>Copy of internal policy document entered into with REL governing the provision of support services</i>	178- 180
<i>Copy of cost allocation sheet providing the basis of allocating expenses</i>	181- 191
<i>Copy of debit notes/ invoices raised by the REL for charging support service fees</i>	384- 466
<i>Copy of details of expenses incurred by REL and emails exchanged evidencing provision of services</i>	326- 374
<i>Copy of TDS certificates evidencing deduction of tax on the payment made for support services to REL</i>	375- 383

*The assessing officer in his order has nowhere controverted the aforesaid evidence placed on record by the assessee. In fact, in complete ignorance of the aforesaid documents, the assessing officer has baldly alleged that the assessee did not prove justification of the support service fee paid to REL.*

*In view of the aforesaid, the disallowance made by the assessing officer, being totally arbitrary in nature, is erroneous and calls for being deleted in toto.*

*At this juncture, it is pertinent to mention here that the aforesaid issue now stands covered in favour of the assessee by the following orders rendered in the case of assessee's group companies as under:*

*-ACIT vs. Religare Arts Initiative Ltd: ITA 2770/Del/2017 for assessment year 2012-13 (department appeal against the CIT(A) order dismissed on account of low tax effect) - refer pages 79-82 of CLPB;*

*-Religare Finvest Ltd vs. DCIT: ITA 4796/Del/2017 for assessment year 2012-13- refer pages 83-94 of CLPB*

*In that view of the matter, the disallowance made by the assessing officer cannot be sustained.”*

15. We have heard both the parties and perused the material available on record. The Ld. CIT(A) in deleting the above addition of Rs. 10,30,65,230/-

followed the decision of his predecessor who had relied upon the decision of the Ld. CIT(A) vide order dated 28.02.2017 in A. No. 288/CIT(A)-7/Del/15-16 For A.Y. 2012-13 in the case of M/s Religare Arts Initiative Ltd. In the relied upon decision, it was submitted by the Ld. AR that except for payment of rent of Rs 49,821/- to Religare Enterprises Ltd, which was holding company of M/s Religare Arts Initiative Ltd., the other rental expenses were not governed by Section 40(a)(2)(b) of the Act and therefore, disallowance of 25% of rental payment made by the AO, was not in order. However, in the present case, as submitted by the assessee in its written submission reproduced above and duly highlighted by us, the assessee during the year had made a payment of Rs. 13,09,83,398/- to M/s Religare Enterprises Ltd., towards rent, for letting out of office spaces owned by it at Noida, Mumbai and Pune. Therefore, the facts in the present case of the assessee are distinguishable in this case. The Ld. CIT(DR) in her submission as duly highlighted by us has also submitted that in absence of rent comparables, the rent for the said premises should be tested against the prevailing market rates. Therefore, the necessity of the payment of the said rent Rs. 13,09,83,398/- and its reasonableness paid by the assessee to Religare Enterprises Ltd. were not examined by the Ld. CIT(A), which was required to be done by him. In view of this fact, the Ld. CIT(A) erred in following the

decision of his predecessor in deleting the said disallowance on account of the rent.

16.1 Regarding the balance expenses towards “support service fee” – Rs. 15,33,73,982/- and towards “recovery of expenses directly incidental to provision of support services” – Rs. 13,09,83,398/-, the assessee submitted before the Ld. CIT(A) that the necessary details and the justification and purpose for which it was incurred along with the agreement / commercial understanding was submitted before the Assessing Officer vide letter dated 24.03.2015 and 26.09.2016. These submissions were duly forwarded by the Ld. CIT(A) and called for a remand report in the matter vide letter dated 28.09.2016 as referred in para no. 5.2 of the order of the Ld. CIT(A) and duly highlighted by us. However, the Assessing Officer objected to the filing of the said additional evidences and reiterated that no such submission as claimed by the assessee filed vide letter dated 26.09.2016 was submitted by the assessee before the Assessing Officer. These facts, are noted by the Ld. CIT(A) in para 5.3 of his order which has been duly highlighted in the earlier part of this order. Thus, it is seen that the Assessing Officer did not examine the documents / explanation forwarded by the Ld. CIT(A) and thus, the factual verification of the documents was not done by the Assessing Officer. The said documents were also not examined by the Ld. CIT(A), who after quoting the above remand report dated 08.03.2018 of

the Assessing Officer straightaway followed the decision of his predecessor as referred above and deleted the said addition as highlighted above by us. The relevant extract of the Ld. CIT(A) in para no. 5.4 of his order is reproduced once again for ready reference:

“5.4 It is noted that appeal was instituted on similar facts in the appellant's group cases on this ground and the issue has been decided by my predecessor in favour of the appellant The Ld. CIT(A) vide order dated 28.02 2017 in A No. 288/CIT(A)-7/Del/15-16 for A. Y. 2012-13 in the case of M/s Religare Arts Initiative Ltd decided as under.”

16.2 Therefore, the above order of the Ld. CIT(A) in deleting the disallowances being 25% of “support service fee” – Rs. 15,33,73,982/- and towards “recovery of expenses directly incidental to provision of support services” – Rs. 13,09,83,398/- without examining the basis and its reasonableness cannot be sustained. On similar facts, wherein the Ld. CIT(A) had confirmed the adhoc disallowance without examining the explanation submitted by the assessee towards the basis and the reasonableness of the said disallowance, the Coordinate Bench of Tribunal in the case of M/s Religare Finvest Ltd. vs. DCIT in ITA No.- 4796/Del/2017 & ors. vide order dated 13.07.2017 had set aside this issue to the file of the Assessing Officer with a direction to adjudicate the issue afresh after verifying the documents produced by the assessee in accordance with law. It may be mentioned that in the cited case similar adhoc disallowance of support service fee and reimbursement of expenses was made in the case of

M/s Religare Finvest Ltd for A.Y. 2012-13 (being the lead case) It may be mentioned that in the cited case during the year in respect of the support service fee amounting to Rs. 63,55,67,850/- paid by various companies (as listed out in para no. 17 of the said order) an amount of Rs. 3,786/- was also paid by the assessee company i.e. Religare Security Ltd. to M/s Religare Finvest Pvt. Ltd.

The relevant extract of the order of the Tribunal in the cited case is reproduced as under:

*“ 17. Ground No. 3 to 3.3 of the Assessee’s appeal in ITA No. 4796/Del/2017 (A.Y 2012-13) is regarding ad-hoc disallowances of support service fee and reimbursement of expenses. Brief facts of the case are that: During the previous year relevant to Assessment Year 2012-13, the Assessee had paid business support service fee to the following parties:-*

<i>Sr. NO.</i>	<i>Particulars</i>	<i>Amount (Rs.)</i>
1.	<i>Religare Enterprises Limited</i>	<i>28,41,84,487</i>
2.	<i>Finserve Sahre Services Limited</i>	<i>26,81,42,354</i>
3.	<i>Religare Housing Finance and Development Corporation Ltd.</i>	<i>36,00,000</i>
4.	<i>Religare Infra Facilities Limited</i>	<i>7,48,79,953</i>
5.	<i>Religare Securities Limited</i>	<i>3,786</i>
6.	<i>Vistaar Religare Capital Advisors Ltd.</i>	<i>47,20,265</i>
7.	<i>Auriga Marketing Services Private Limited.</i>	<i>37,005</i>
	<i>Total</i>	<i>63,55,67,850</i>

*In addition to the aforesaid, following expenses were also recovered by REL, on cost-to-cost basis, from the Assessee:*

<b>Sr. No.</b>	<b>Particulars</b>	<b>Amount (Rs.)</b>
1.	<i>Recovery of expenses directly incidental to provision of support services</i>	3,39,82,487
2.	<i>Rent paid to REL</i>	12,85,99,888
	<b>Total</b>	<b>16,25,82,591</b>

*Thus, for the year under consideration, the Assessee made a total payment of Rs.79.81 crore (Rs. 63.55 Cr + 16.25 cr) to its group companies for provision of support services. The assessing officer made an ad-hoc disallowance of 25% of the support service fee paid by the assessee to its group companies under section 40A(2)(b) of the Act on the grounds that the Assessee had failed to explain the reasonableness of the payment made on account of support service by provided by the group companies holding that: justification for incurring such expenditure was not explained properly by the Assessee and the Assessee failed to furnish cost allocation key and list of expenses reimbursed by Assessee and the Assessee had failed to deduct tax at source on certain expenses reimbursed.*

*18. On appeal, the Ld. CIT(A) sustained/ confirmed the disallowance made by the assessing officer holding that Assessee had failed to prove that the said expenditures were incurred wholly and exclusively for the purpose of the business of the Assessee. However, taking note of the computational error in the assessment order, the CIT(A) directed the assessing officer to re-compute the disallowance under section 37(1) of the Act at 25% of the correct amount of Rs.79.81 crores. Aggrieved, by the same the assessee raised Ground No. 3 to 3.3 before us in ITA No. 4796/Del/2017 for A.Y. 2012-13.*

*19. The Ld. Counsel for the assessee has filed detailed submission by explaining the services received from each of the group companies and further submitted that the payment for services made to group entities were in respect of regular business functions which were essential for smooth day to day functioning of any company, it was only reduce cost and enjoy benefit of energy among the group over provisions of support services were centralized rather than each company employing their own resources for similar business functions, thereby leading to overall increase in the group operating cost as a whole. Further submitted that the ld. CIT(A) on the basis of incorrect observation held that the entire expenditure incurred on support service payment cannot be considered to be expenditure incurred wholly and exclusively for the purpose of business within the meaning of Section 37(1) of the Act and thus committed an error in disallowing 25% of the expenditure incurred. The Ld. Counsel for the assessee has also submitted that, the CIT(A) erred in not considering following corroborative evidenced placed on record by the assessee to demonstrate that the services were rendered for the smooth functioning of business of the assessee.*

<b><i>Particulars submitted before the AO and CIT(A)</i></b>	<b><i>Page no. of PB VOL-2</i></b>
<i>List of employees of the appellant evidencing that all employees of the appellant were involved in core business functions and the appellant did not have employees for business support functions;</i>	712-756
<i>List of employees working in support functions of REL for providing support services to the group companies</i>	757-765
<i>List of employees working in support functions of FSSL for providing support services to the group companies</i>	1011-1021
<i>Copy of agreement(s) governing the provision of support services:</i> - REL - FSSL - RHDFC - REL Infra - Vistaar RSL and Auriga (based on debit notes raised for professional services)	709-711, 711-787 955-987 1097-1108 1153-1154
<i>Copy of debit notes/ invoices raised by the companies from whom services has been received-</i> - REL - FSSL	789-822; 830-951 988-992
-RHDFC -REL Infra <i>Copy of emails exchanged with the service providing companies evidencing provision of services-</i> - REL - FSSL - RHDFC -REL Infra	1109-1119 1157-1167 829 1022-1096 1130-1152
<i>Copy of IDS certificates evidencing deduction of tax on the payment made for support services-</i> - REL - FSSL - RFIDFC - REL Infra - Vistaar - Auriga	766-74 993-1010 1120-1127 1168-1220 1235-1242 1245

*20. The Ld. Counsel for the Assessee further submitted that, the CIT(A) in his order nowhere considered or refuted the above evidences placed on record by the assessee and without any basis observed that the payment has not been made wholly and exclusively for the purpose of business of the assessee. 21. The Ld. DR relying on the order of the Lower Authorities justified the observation made by the CIT(A), submitted that in the absence of the materials, the CIT(A) rightly held that the payment has not been made wholly and exclusively for the purpose of business of the assessee.*

*22. We have heard and perused the documents. Considering the fact that the CIT(A) had observed in its order that payment has not been wholly and exclusively for the purpose of business of the assessee without referring to the documents produced by the assessee (mentioned above), we are of the opinion that, if the issue involved in Ground No. 3 to 3.3 is remanded to the file of CIT(A) for adjudicating the same afresh after considering all the documents produced by the Assessee, the substantial to 3 to 3.3 of the assessee is remanded to the file of CIT(A) with a direction to adjudicate the issue afresh after verifying the documents produced by the assessee in accordance with law. Needless to say, the assessee shall be provided with an opportunity of being heard. Accordingly, the Ground No. 3 to 3.3 of the assessee in I.T.A. No.4796/Del/2017 is allowed for statistical purpose.”*

16.3 As discussed above, the necessity of the payment of the said rent Rs. 13,09,83,398/- and its reasonableness paid by the assessee to Religare Enterprises Ltd. was not examined by the Ld. CIT(A), which was required to be done by him and it requires factual verification. Further, the Ld. CIT(A) also did not examine details and the justification and purpose and the reasonableness of the expenses towards “support service fee” – Rs. 15,33,73,982/- and towards “recovery of expenses directly incidental to provision of support services” – Rs. 13,09,83,398/-, as submitted by the assessee before him which again requires factual verification.

16.4 In view of the above facts, as the factual verification was not done by the Ld. CIT(A) in respect of the explanation / evidences filed by the assessee before him,

before deleting the said disallowance of Rs. 10,30,65,230/-, following the decision of the co-ordinate Bench of the Tribunal in the case of Religare Finvest Ltd. vs. DCIT (supra), we set aside the order of the Ld. CIT(A) and remand the matter to his file for adjudicating the same afresh after considering all the documents produced by the assessee and in accordance with law. Needless to say, the assessee shall be provided with an opportunity of being heard by the Ld. CIT(A). Ground no. 2 of the appeal is allowed for statistical purposes.

17. In the result, appeal of the Revenue is partly allowed.

Order pronounced in the open court on 22<sup>nd</sup> December, 2025.

Sd/-  
**[VIKAS AWASTHY]**  
**JUDICIAL MEMBER**

Sd/-  
**[BRAJESH KUMAR SINGH]**  
**ACCOUNTANT MEMBER**

Dated 22.12.2025.

*Pooja*

Copy forwarded to:

1. Assessee
2. Respondent
3. PCIT
4. CIT(A)
5. DR

Asst. Registrar,  
ITAT, New Delhi,

1.	Date of dictation of Tribunal order	17.12.2025, 19.12.2025 22.12.2025
2.	Date on which typed draft order is placed before the dictating Member	22.12.2025
3	Date on which typed draft order is placed before the other Member (in the case of DB)	
4.	Date on which the approved draft order comes to P.S/Sr.P.S	
5.	Date on which the fair Order is placed before the dictating Member for sign	
6.	Date on which the fair Order is placed before the other Member for sign ( in the case of DB)	
7.	Date on which the Order comes back to P.S./Sr.P.S for uploading on ITAT website	
8.	Date of uploading, if not, reason for not uploading	
9.	Date on which the file goes to the Bench Clerk	
10.	Date on which order goes for xerox	
11.	Date on which order goes for endorsement	
12.	Date on which the file goes to the Superintendent/O.S. for checking	
13.	Date on which the file goes to the Assistant Registrar for signature on the order	
14.	Date on which the file goes to dispatch section for dispatch the Tribunal Order	
15.	Date of dispatch of order	
16.	Date on which file goes to Record Room after dispatch the order	