

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

**BEFORE SHRI C.N. PRASAD, JUDICIAL MEMBER**

**AND**

**SHRI NAVEEN CHANDRA, ACCOUNTANT MEMBER**

**ITA No.953/Del/2024**

**[Assessment Year: 2017]**

<b>Dy. CIT, Aayakar Bhawan Haryana Karnal</b>	<b>Vs.</b>	<b>Nivaya Resources Pvt. Ltd. 211, World trade Centre, Shamalkha Sayajigunj, Vadodra, Vadodra Gujarat 390020 PAN No.AAICA32981E</b>
Appellant		Respondent

**Cross Objection No.75/Del/2025**

**(In ITA No.953/Del/2024)**

**[Assessment Year: 2017]**

<b>Nivaya Resources Pvt. Ltd. 211, World trade Centre, Shamalkha Sayajigunj, Vadodra, Vadodra Gujarat 390020 PAN No.AAICA32981E</b>	<b>Vs.</b>	<b>Dy. CIT, Aayakar Bhawan Haryana Karnal</b>
Appellant		Respondent

Revenue by	Ms. Ankush Kalra, Sr. DR
Assessee by	Sh. Dhruv Goel, CA

<b>Date of Hearing</b>	<b>18.11.2025</b>
<b>Date of Pronouncement</b>	<b>14.01.2026</b>

## ORDER

**PER C.N. PRASAD, JM,**

This appeal is filed by the revenue and cross objection by the assessee against the order of the Ld. Commissioner of Income Tax (Appeals)/ NFAC, Delhi vide order dated 31.12.2023 for the A.Y. 2017-18.

2. The revenue in its appeal challenged the order of the Ld. CIT(A) in deleting the addition made in respect of cash deposits and restricting disallowance u/s. 14A r.w.r 8D and the assessee in its appeal challenged the order of the Ld. CIT(A) in partly sustaining the disallowance u/s.14A of the Act

3. Brief facts of the case are that the assessee company is engaged in the business of trading of fuel oil, lubricants and other similar products, filed its return of income on 29.11.2017 declaring income of Rs.3.46 cores. In the course of assessment proceedings the AO noticed that there were cash deposits of Rs.2,12,56,500/- in the assessee's bank account post demonetization. The assessee explained that the cash was deposited partly out of the opening cash balance of Rs.3,74,87,384/- as on 01.04.2016 and balance out of cash withdrawn from bank during the year. The assessee furnished cash book to establish that sufficient cash was available for making such deposits. Further in the course of assessment proceedings the assessee elaborated that out of opening cash of Rs.3,74,87,384/- as on 01.04.2016 an amount of Rs.3.7 cores was held as imprest balance and shown as loans and advances in the balance sheet for the A.Y.2016-17. The

assessment for the A.Y.2016-17 was completed u/s.143(3) by very same AO on 19.12.2018 and during assessment proceedings details of such imprest balance were also filed and the AO did not draw any adverse inference while completing the assessment. It was further contended before AO that the imprest was accumulated over the years out of previous cash withdrawals that the details were furnished the assessee also furnished a certificate from statutory auditors to that effect.

4. The AO disbelieving the explanation offered by the assessee and by casting doubt on categorization of opening cash in hand as loan and advances in previous year balance sheet and on the basis of such suspicion and doubts, rejected books of accounts u/s.145(3) and assessed cash deposits of Rs.2,12,56,500/- as unexplained income u/s.68 of the Act. On appeal the Ld. CIT(A) held that the rejection of books of accounts is bad in law and further held that the AO had incorrectly relied on suspicion by holding cash deposits to be unexplained and deleted entire additions. Again this deletion the revenue is in appeal before us.

5. The Ld. DR strongly placed reliance on the order of the AO and the findings thereon.

6. On the other hand the ld. Counsel for the assessee placed reliance on the order of the CIT(A).

7. Heard rival contentions and perused the orders of the authorities below. We find that the Ld. CIT(A) considering the submissions of the assessee and the evidences placed on

record and the averments in the assessment order, deleted the addition observing as under :-

*“9.1 As per the assessment order, it is seen that the A.O. noted that the assessee had deposited cash of Rs.2,12,56,500/- during the demonetization period in the bank accounts. Assessing officer during the course of assessment proceedings requested the assessee to file details as have been mentioned in paragraph 3 of the assessment order. These included filing of copy of the bank statement, furnishing of details of month wise cash sales and cash deposits from 1st April 2015 to 8th November 2015, details of month wise cash sales and cash deposits from 1 st April 2016 to 8 th November 2016. The assessee appellant provided these details which stand reproduced in the assessment order. AO issued a show cause notice vide letter dated 14 December 2019 where it was mentioned that in the absence of complete verification of cash of 2,12,56,500 deposited during demonetization, it is proposed to treat cash deposits as unexplained credits in the books of account under section 68 of the income tax act. Assessee filed two replies dated 17th December 2019 and 22nd December 2019 which stand reproduced in the assessment order. As per the assessee appellant, the source of cash deposit in the bank account was the imprest cash off 3,70,00,000/- available with the assessee which was carried over from the last year and is reflected in the balance sheet as on 31st of March 2016 under the head short term loans and advances. The cash was deposited out of this available cash in hand with the assessee on 8th November 2016. The AO did not agree with the explanation rendered by the assessee appellant and he made an addition of Rs.2,12,56,500/- deposited during the demonetization to be not explainable and treated it as income of the assessee from undisclosed sources under section 68 of the Income Tax Act.*

*9.2 I have considered the reasoning given by the AO for making an addition of Rs.2,12,56,500/- applying the provisions of section 145(3) as well as the written submissions filed on behalf of the assessee appellant along with the documents placed in the Paper Book which are re-produced above in para 5 above. The relevant extract in respect of this ground is again reproduced hereinunder:*

*4.1. Due to demonetization announced by the government, the assessee company had deposited High Denomination Notes amounting Rs. 2,12,56,500/- out of the cash in hand and Imprest balances at the office(s) of the company amounting Rs.4,64,07,575/-as on 8th November 2016. The return for preceding year i.e. AY 2016-17 was processed u/s 143(3) of the*

*Income Tax Act, 1961 and in course of proceedings u/s 143(2), the assessee company had filed details of loans & advances which clearly reflected the Imperest balance with Mumbai & Delhi Office amounting to Rs.2,00,00,000/- & Rs. 1,70,00,000/- respectively. The Ld. AO had found no infirmity in this explanation while concluding the assessment for AY 2016-17 i.e. the year immediately preceding the year in question.*

*4.2. The gross turnover of the assessee company during the relevant financial year was Rs. 280.08/- crores and its business is spread across North India and West India. To meet out contingencies, the management had decided to keep some money in Imprest at both locations. For meeting day to day expenditure, the company was maintaining petty cash Imprest of Rs.4,87,384/- at the beginning of the year and this was required to be maintained to support lower level operations. It is a settled proposition of law that Ld. AO cannot guide the assessee how to optimally utilise its resource or how the business ought to have been run. It is the commercial wisdom of the assessee and not of AO that is relevant for the purpose of running the business. An imprudent decision cannot lead to an inference contrary to the fact on record. Page 15 of 22 AAICA3281E- NIVAYA RESOURCES PRIVATE LIMITED A.Y. 2017-18 ITBA/NFAC/S/250/2023-24/1059235278(1)*

*4.3. The company maintained cash balance(s) at Mumbai office and Delhi office as "Branch Imprest Account" which was made up of cash withdrawn from the company's bank accounts from time to time and transferred cash in hand from such Imprest account to Cash Balance at HO of the company. As on 31st march, 2016, these Imprest balance were classified under the grouping Other Current Assets and shown under Annexure Note No. 17 of the notes forming part of financial statements titled as Advance recoverable to Rs. 3,70,00,000/- and cash in hand at the registered office of the company amounted to Rs. 4,87,384/-. The said amount of Rs. 3,70,00,000/-was re-grouped under "Cash & Bank Balances in the previous year figures appearing at Note no. 16 of the audited financial statement(s) for the year ended on 31st March,2017.In other words, this balance of Rs. 3,70,00,000/-reflecting as "imprest accounts" in Note no.17 of the audited financial statements for the year ended on 31st March, 2016 was reclassified as "Cash & Bank Balances" in Note No. 16 of the audited financial statements ended on 31st March, 2017.The assessee company had also submitted a clarification from its Statutory Auditors explaining the said treatment (A copy is placed at Page No. 66 of the Paper Book).*

4.4. *The Imprest maintained at Delhi office, which was Head office of the company as well was lying with Surinder Gupta to meet out contingencies. The petty cash at Mumbai was being maintained with Mr. Shailesh Nigam & the petty cash at Delhi was being maintained with Mr. Anurag Gupta, they are both cashier of the company and were meant for day to day expenses to be incurred in cash.*

4.5. *The assessee company has submitted the month wise details of cash in hand and Date wise details of cash in hand for the period 01-10-2016 to 08-11-2016 in requisite format. The assessee company had also submitted Month wise cash details from 01-04-15 to 31-03-16, Month wise cash details from 01-04-16 to 31-03-17 in the requisite format, Month wise cash in hand in Branch Account and details of bank accounts in which cash during the demonetization period was deposited.*

4.6. *The appellant had placed on record, vide its letter dated 17.12.2019 reproduced at Para 3.6 of impugned order, month wise details of cash in hand; date wise details of cash in hand for the period 01-10-2016 to 08-11-2016 in the format prescribed by Ld. AO. The appellant had also submitted, vide reply dated 22.12.2019 month wise cash details for the year 2015 16, which clearly showed that amounts have been transferred to imprest Account and is reproduced at Para 3.8 of the impugned order. The month-wise details of cash from 1.4.16 to 31.3.17; particulars of branches and person in charge of imprest account details of bank account where the cash was deposited with date and an explanation why the cash was deposited in pieces and how the cash was received from Branches were also submitted vide letter dated 22.12.2019 and is forming part of para 3.8 of impugned order.*

4.7. *The Ld. AO has rejected the explanations offered in reference to cash deposited in demonetization period without understanding the accounting treatment and the presentation thereof in the financial statements, which were duly audited by a chartered accountant and the presentation was clarified by way of explanation by them. The Ld. AO has ignored that the return for immediately preceding year was scrutinised u/s 143(3) and no adverse inference was drawn from the presentation of Imprest Account under "Loans & Advances". The closing balance stood admitted by the Ld. AO while passing order for at 2016-17. The closing balance is carried forward as opening balance of A.Y. 2017-18 and disbelieving such balance is without any basis. The allegation of non-existence of any cash in hand at the branches and rejecting the explanation of grouping the Imprest (cash to branches) under the head current assets as after-thought is based*

*on surmises and conjecture and there is no basis for such conclusion.*

*4.7.1. The Ld. AO has rejected the explanation relating to Imprest Account shown under "Loans & Advances" in the financial year 2016-17 has been disbelieved on proposition such Imprest should have been shown as Cash balances with Branches. The Ld. AO has ignored that how a balance is disclosed in the financial statement cannot determine its character for tax purposes and an income is taxed on the basis of the nature of the transaction. Nonetheless to say, it is not in dispute that such balance was held as Imprest and reported as such in the audited financial statements.*

*4.7.2. The Ld. AO has not given cogent reasons, except conclusions based on hypothesis or conjectures. The Ld. AO has not found any infirmity in the details of cash in hand submitted with his office and an explanation that the opening balance stood confirmed from the assessment records of immediately preceding year. The holding of cash at branches in the light of small cash expenditure or difficulty in transportation of such cash to branches or from branches cannot be basis for additions. The Ld. AO has proceeded to make additions without making any inquiry and just believed on the information in his possession. The explanation of the appellant that such cash deposit is out of cash in hand duly reflecting in the books of accounts as on 8.11.2016 would have been found correct by the Ld. AO had he looked at the fact objectively without any prejudice. An affidavit from the concerned office of the company in relation to holding of cash in Imprest by him is placed in Paper Book at Page Nos. 67-70.*

*4.7.3. The Ld. AO has further pointed out that "as per reply of the assessee, the amount of Rs. 2,00,00,000/- lying at Mumbai was in lower denomination, hence the same was not deposited into bank account during demonetization period". At the same time, he has also disbelieved the contention of the appellant at para 3.11.4(b) concluding that "It is just practically not possible and unbelievable also that the cash of Rs. 2,00,00,000/- were transferred to Mumbai in lower denomination". The Ld.AO has failed to appreciate that this imperest was held as at opening date also and the same stood duly scrutinized in course of assessment proceeding u/s 143(3) for the preceding financial year.*

*4.7.4. The question why cash would be kept idle while interest is being paid by the appellant on the other hand cannot lead to any adverse inference.*

*4.8. Section 68 deems any credit found in the books of account as income if the assessee fails to offer any explanation about its*

*nature and source or such explanation is not found satisfactory by the Ld. AO. In the present case, the assessee has explained by documentary evidence(s) that the amount of cash deposit during the demonetization period was out of cash in hand. The contents of the cash details were not found incorrect. On deposit of cash, the cash book was credited and bank was debited. These entries were duly reflecting in books of account. The explanation cannot be rejected on the grounds of practicability or commercial expediency and such rejection cannot be made the basis for addition u/s 68 of the Income Tax Act, 1961. The provisions of section 68 are not applicable to the present case.*

*4.9. In a recent decision the Ld. Delhi Tribunal in the case of Gordhan, Delhi v/s DCIT dated 19/10/2019 held that "no addition can be made u/s 68 on the sole reason that there is a time gap of 5 months between the date of withdrawals from bank account and redeposit the same in the bank account, unless the AO demonstrate that the amount in question has been used by the assessee for any other purpose. In my view addition is made on inferences and presumptions which is bad in law." There is no evidence on record that the cash in hand was non-existent. The AO's belief is without any basis and founded on surmises & conjectures.*

*4.10. Likewise in the case of ACIT vs. Baldev Raj Charla 121 TTJ 366 (Delhi) also, it was held that merely because there was a time gap between withdrawal of cash and cash deposits explanation of the assessee could not be rejected and addition on account of cash deposit could not be made particularly when there was no finding recorded by the assessing officer or the Commissioner that apart from depositing this cash into bank as explained by the assessee, there was any other purposes it is used by the assessee of these amounts.*

*4.11. Even in of CIT vs. Kulwant Rai in 291 ITR 36 where the cash withdrawal was 5-6 year earlier, the Hon'ble Delhi High Court deleted the additions and has held as under:- "This cash flow statement furnished by the assessee was rejected by the AO which is on the basis of suspicion that the assessee must have spent the amount for some other purposes. The orders of AO as well as CIT(A) are completely silent as to for what purpose the earlier withdrawals would have been spent. As per the cash book maintained by the assessee, a sum of Rs.10,000 was being spent for household expenses every month and the assessee has withdrawn from bank a sum of Rs. 2 lacs on 4th Dec., 2000 and there was no material with the Department that this money was not available with the assessee. It has been held by the Tribunal that in the instant case the withdrawals shown by the assessee are*

*far in excess of the cash found during the course of search proceedings. No material has been relied upon by the AO or CIT(A) to support their view that the entire cash withdrawals must have been spent by the assessee and accordingly, the Tribunal rightly held that the assessment of Rs. 2.5 lacs is legally not sustainable under s. 158BC of the Act and the same was rightly ordered to be deleted."*

*4.12. The Ld. Delhi tribunal recently deleted the addition made for inordinate delay in cash deposit in the case of NEETA BREJA v/s ITO (ITA No 524/D/17/25-11-2019).*

*4.13. In the present case, the cash was deposited out of balance in hand of assessee company and the same was duly recorded therein. There is no dispute that its books were reflecting the cash balance of Rs. 4,64,07,575/-as on 8.11.2016. The finding of the Ld. AO that the appellant had no cash balance and it was cooked up story is without any basis and no evidence has been brought on record. It is based on pure guess.*

*4.14. In view of this, it is submitted that the Ld. AO has passed the impugned order mechanically on surmises & conjectures without making any inquiry, particularly without looking at the statement of account in which cash is alleged to be deposited. The appellant's case is supported by the decisions of tribunal and jurisdictional high court where the cash deposit out of previous withdrawals, in the absence of any finding as to utilisation of withdrawn cash for any other purpose, has been accepted and the additions made u/s 68 or 69A have been deleted.*

*9.2 I find force in the explanations given by the appellant assessee in respect of the availability of cash in hand out of imprest account. There is no dispute that its books were reflecting the cash balance of Rs. 4,64,07,575/-as on 8.11.2016. Deposit of High Denomination Notes of Rs.2,12,56,500/- out of the available cash in hand is a plausible explanation especially when the closing balance as on 31.03.2016 which was the opening balance as on 01.04.2016 has been accepted under scrutiny. The explanation that there was regrouping can not be brushed aside at the outset. The AO has reproduced the reply of the assessee dated 26 December 2019 at Pages 19-21 of the assessment order. This is also placed in the Paper Book filed by the assessee appellant at Pages 1-3. The appellant assessee has in Paragraph 1 and 5 of the said reply stated that it is pertinent to note that the return for AY 2016 17 was processed under section 143(3) of the Income Tax Act 1961 and in the course of proceedings under section 143(2), the assessee company had filed details of loans and advances vide letter dated 14 November 2018 (received by your office on 15th*

November 2018). These details had clearly reflected the balance with Mumbai and Delhi office amounting to Rs.2,00,00,000/- and Rs.1,70,00,000/- respectively. Further, this matter was examined in detail in the month of March 2017 by your office and no infirmity in the explanation was found. Further there is no material to suggest that the assessee company is engaged in any income earning activity which is not disclosed to the department. These averments on behalf of the assessee have not been controverted/negated by the AO. The appellant assessee has even filed a certificate from the Chartered Accountants dated 22nd March 2017 wherein they have given the breakup of the short term loans and advances. Nothing has been brought on record to show that the assessee appellant was having any other source of income which could have generated the cash deposited in the bank account during demonetization. The books of accounts were duly audited as per the Companies Act and as per the Income Tax Act. The appellant assessee has filed sworn affidavits from the CFO and Non-executive director who have deposed in respect of the availability of imprest account at Mumbai and Delhi.

*The Hon'ble Supreme Court in the case of Mehta Parikh & Co. vs. CIT [1956] 30 ITR 181 (SC) has held:*

*Section 143 of the Income-tax Act, 1961 [Corresponding to section 23 of the Indian Income-tax Act, 1922] - Assessment - Additions to income - Assessment year 1947-48 - on promulgation of High Denomination Bank Notes (Demonetisations) Ordinance, 1946, Assessee firm encashed 61 high denomination notes of Rs. 1,000 each - When asked to prove, assessee submitted books of account showing relevant entries showing payment being made to them which resulted in said cash in their hand - It also submitted affidavits of payers - Revenue authorities held that it was not possible that all payments after a particular date were being made in multiples of Rs. 1000 - They held a part of this amount to be assessee's income from undisclosed sources - Whether it was not enough without further scrutiny to dislodge position taken up by assessee which was supported by entries in cash books and affidavits put in by assessee - Held, yes - Whether, treating a part of case balance as assessee's income from undisclosed sources was based on pure surmise and based on no evidence and, hence, to be quashed - Held, yes*

*Section 256 of the Income-tax Act, 1961 [Corresponding to section 66 of the Indian Income-tax Act, 1922] - High Court - Reference to - Assessment year 1947-48 - Whether facts proved or admitted may provide evidence to support further conclusions to be*

*deduced from them which conclusions may themselves be conclusions of fact and such inferences from facts proved or admitted could be matters of law - Held, yes - Whether on reference, High Court may be entitled to intervene if it appeared that facts finding authority had acted without any evidence or upon a view of facts, which could not reasonably be entertained or facts found are such that no person acting judicially and properly instructed as to relevant law would have come to determination in question - Held, yes*

*9.3 While adjudicating Ground No.2, I have held that the books of account have been wrongly rejected by the AO. The Hon'ble Supreme Court in the case of Lalchand Bhagat Ambica Ram vs. CIT [1959] 37 ITR 288 (SC) has held:*

*Section 143 of the Income-tax Act, 1961 - Assessment - Addition to income - Assessment year 1946-47 - Assessee carried on extensive business in grain as merchant and commission agent - Assessee maintained its books of account according to mercantile system and there were maintained in its cash books two accounts: one showing cash balances from day to day and other known as "Almirah account" wherein were kept large balances which were not required for day-to-day working of business - It filed its return showing loss in business - However, ITO noticed that assessee had encashed high denomination notes of value of Rs. 2.91 lakhs on 19- 1-1946 - Assessee's explanation that those notes formed part of its cash balances including cash balances in Almirah account was rejected by ITO who took into account several surrounding circumstances and included said sum in its total income - ITO also found that portions of entries in assessee's accounts to effect that money's had been received in high denomination notes were subsequent interpolations - Before Tribunal assessee stated that said entries were made in nervousness after coming into force of High Denomination Bank Notes (Demonetization) Ordinance, 1946 on 12-1-1946, as it did not know it had specific proof in its possession of having high denomination notes as part of its cash balances - Tribunal accepted assessee's explanation in respect of said interpolations and held that there was no other reason to suspect genuineness of account books - It was also found that as per book entries cash balance on 12-1- 1946 aggregated to more than Rs. 3.1 lakh - However, examining cash book and taking into account all circumstances adverted to by ITO, Tribunal held that assessee might be expected to have possessed as part of its business cash balance of at least Rs. 1.5 lakhs in shape of high denomination notes on date when said ordinance was promulgated but nature of source from which it derived remaining high denomination*

*notes remained unexplained - Accordingly, Tribunal reduced addition - Whether when entries in books of account in regard to cash balances were held to be genuine, there was no escape from conclusion that assessee had offered reasonable explanation as to source of all high denomination notes which it encashed on 19-1-1946 and it was not open to Tribunal to accept genuineness of those books and accept assessee's explanation in part and reject same in regard to balance sum - Held, yes - Whether, therefore, it was clear that Tribunal in arriving at its conclusion indulged in suspicions, conjectures and surmises and acted without any evidence or upon a view of facts which could not reasonably be entertained or finding was perverse which could not be sustained and Supreme Court was entitled to interfere with such finding - Held, yes - Whether, therefore, addition made was liable to be deleted - Held, yes*

*In the case of the assessee appellant, there is cash in hand of Rs. 4,64,07,575/- as on 8th November 2016. The AO has doubted the availability of cash in hand of only Rs.2,12,56,500/- which stands deposited in the bank account during the demonetization period. The balance cash in hand stands accepted. This pick and choose method of availability of cash in hand of the AO cannot be accepted while framing the assessment. As such, the addition of Rs.2,12,56,500/- made by invoking section 68 read with section 115BBE of the Act is directed to be deleted. The Ground of Appeal is Allowed.*

*10. Ground No.4 to 6: These grounds have been raised against the action of the A.O in making an addition of Rs 21,37,244/- u/s 14A of the Act.*

8. On careful perusal of the order of the Ld. CIT(A) we do not see any valid reason to disturb the findings of the Ld. CIT(A) in deleting the addition made u/s.68 of the Act. The ground No. 1 and 2 of grounds of appeal raised by the revenue are dismissed.

9. Coming to ground No.3 which is respect of restricting the disallowance u/s.14A of the Act of Rs.9,52,926/- we observe that the Ld. CIT(A) restricted the disallowance u/s.14A to the exempt income earned by the assessee during the year under consideration by observing as under :-

*“10.1 The A.O. has discussed this issue have been raised against the action of the A.O. in making an addition of Rs.21,37,244/- u/s. 14A of the Act.*

*10.2 I have considered the contentions of the appellant. The assessee appellant had earned total exempt income of Rs.9,52,926 being dividend income and against which the assessee had made disallowance of Rs. NIL under Section 14 A of the Act. The assessee appellant has contended that no human effort directly or indirectly was involved in earning of the dividend income as the shares on which dividend income was earned had been lying in dmat account in dematerialised form since the year of its purchase that is financial year 2014-15 Further, sense, the investment in shares from which dividend income has been earned had happened in earlier years cannot be said that such investment requires management or any personals time on holding it. I am not inclined to accept this contention of the appellant. Section 14 A would be held redundant if this contention is heeded to. However, the second contention as raised in Ground No. 5 raised by the appellant Regarding restricting the amount of disallowance under rule 8D read with section 14 A to the amount of income claimed as exempt is acceptable. The appellant has relied upon the decision reported in 372 itr 694 of the honourable Delhi High Court wherein the Hon'ble High Court has dismissed revenues appeal against the order of ITAT restricting the disallowance to the amount of exempt income. It has further been submitted that the department's SLP has also been dismissed by the Hon'ble Apex court. Respectfully following the decision of the Hon'ble Delhi High Court, the addition is restricted to Rs.9,52,926/-. As such grounds of*

*appeal 4 and 6 are dismissed while Ground Number 5 is allowed.”*

10. In view of the above findings of the Ld. CIT(A) we see no merit in the ground raised by the revenue and the same is rejected.

11. Coming to the appeal of the assessee which challenged the order of the Ld. CIT(A) in restricting the disallowance u/s.14A to the exempt income earned, the Ld. Counsel for the assessee stated that in view of the Special Bench decision of Delhi in the case of ACIT Vs. Vireet Investment Private Limited [2017] 58 ITR (Trib) 313, only income yielding investments are to be considered for the purpose of computing disallowance under Rule 8D (2)(iii) r.w.s. 14A of the Act.

12. In view of the above we direct the AO to consider only the income yielding investments for the purpose of making disallowance under rule 8D(2)(iii) following the decision of the special Bench in the case of Vireet Investments (supra).

13. In the result, the appeal of the revenue is dismissed and the cross objection of the assessee is partly allowed.

Order pronounced in the open court on 14.01.2026.

SD/-  
[NAVEEN CHANDRA]  
ACCOUNTANT MEMBER

Dated: 14 .01.2026

*NCH, A.P.O.\**

SD/-  
[C.N. PRASAD]  
JUDICIAL MEMBER

Copy forwarded to:

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

Asst. Registrar,  
ITAT, New Delhi