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

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER

ITA No.5808/Del/2024
Assessment Year: 2018-19

DCIT, Circle-19(1), Delhi	**Vs.**	Outsourcepartners International Pvt. Ltd., 414, 4th Foor, DLF Jasola Tower-B, Plot No. 10 & 11, DDA District Centre Jasola, New Delhi
		PAN: AAACO5734C
(Appellant)		**(Respondent)**

With
ITA No.5975/Del/2024
Assessment Year: 2018-19

Outsourcepartners International Pvt. Ltd., 414, 4th Foor, DLF Jasola Tower-B, Plot No. 10 & 11, DDA District Centre Jasola, New Delhi	**Vs.**	The Assessment Unit, Income Tax Department [JAO-DCIT, Circle-19(1), Delhi]
PAN: AAACO5734C		
(Appellant)		**(Respondent)**

Assessee by	Sh. Neeraj Jain, Adv. Sh. Dhruv Seth, Adv. Ms. Konika Sharma, CA
Department by	Ms. Ankush Kalra, Sr. DR

Date of hearing	08.01.2026
Date of pronouncement	16.01.2026

ORDER

PER SATBEER SINGH GODARA, JM

These Revenue's and assessee's cross appeals ITA Nos.5808/Del/2024 and 5975/Del/2024 for assessment year 2018-19 arises against the Commissioner of Income Tax (Appeals)/National Faceless Appeal Centre [in short, the "CIT(A)/NFAC"], Delhi's DIN and order no. ITBA/NFAC/S/250/2024-25/1069930080(1), dated 24.10.2024 involving proceedings under section 143(3) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act').

Heard both the parties. Case files perused.

2. Coming to the Revenue's appeal ITA No.5808/Del/2024, we notice during the course of hearing that its sole substantive ground seeks to revive the Assessing Officer's action invoking section 14A read with Rule 8D disallowance of Rs.2,13,32,788/- made in assessment order dated 27.09.2021 and reversed in the lower appellate discussion as under:

> *"7. Ground No.2 pertains to disallowance of Rs 2,13,32,788/- u/s 14A. It is claimed that the AO did not consider detailed submission of the appellant and did not appreciate that no expenditure was actually incurred in earning exempt dividend income. It is claimed that the disallowance pertains to Birla Sunlife Mutual Fund Growth Direct Plan which was not capable of earning exempt income. It is also claimed that the AO erred in relying on CBDT Circular 5 of 2014 without*

appreciating that it was disregarded by various Courts. Without prejudice, it is stated that the AO erred in making disallowance u/s 14A that exceeded actual exempt income earned by the appellant.

7.1 The appellant has filed detailed submission explaining the legal position. Reference is made to decision of Delhi High Court in the case of Cheminvest Ltd (supra) and other High Court decisions that no disallowance can be made in case where there is no exempt income. It is claimed that no expenditure was actually incurred on account of investment in mutual fund. The assessee did not invest into mutual funds for past several years. No direct or indirect expenses have been incurred on salaries of employees or borrowings. Without prejudice, it is submitted that disallowance u/s 14A cannot exceed exempt income.

7.2 I have considered the submission and oral arguments carefully. The AO noted that the assessee had made investment of Rs. 244.92 crores in Birla Sunlife Mutual Fund Growth Direct and Daily Regular Direct Plans. Investment in Growth Direct Plan as on 01.04.2017 was Rs. 172.09 crores while as on 31.03.2018, it rose to Rs. 244.93 crores. In respect of Daily Dividend Regular Plan, investment of Rs.225.72 crores was made and sold during the year. Thus, there was no opening or closing balance of investment in Daily Dividend Regular Plan. The AO noted that the assessee did not debit any expenses incurred on these investments and asked the assessee to explain applicability of section 14A r.w.s. Rule 8D. It was submitted before the AO that the assessee has been investing in mutual funds for the past many years and that Growth Plan is not covered by the provisions of section 14A as it is not capable of earning exempt income. Appreciation in the value of investment of Growth Plan yields taxable capital gain which is offered to tax by the assessee. Investment in Daily Dividend Plan yielded dividend of Rs. 5,26,102/- which has been automatically invested.

7.2.1 The AO analyzed the reply vis-à-vis provisions of section 14A. He noted that the assessee had made some active investment decisions which was not possible without the efforts of managerial staff and directors. The assessee has not however disallowed any expenses for earning such income. Referring to CBDT Circular No.5/2014, the AO stated that the disallowance u/s 14A can be made if in a year where there is no exempt income. The AO accordingly Invoked provisions of Rule 8D and calculated total disallowance at Rs. 2,13,32,788/- entirely consisting of annual average of monthly averages of opening and closing balances and the value of investment, income from which does not or shall not form the part of total income i.e. the total disallowance worked out under Rule 8D by

the AO did not include any direct amount of interest or other expenses pertaining to tax exempt income.

7.3 I have considered the issue carefully. I agree that in the case of the appellant, the computation method given in Rule 8D fails. It is clear from the calculation done by the AO that there was no amount of direct interest or other expense pertaining to tax exempt income. The disallowance entirely consisted of annual average of monthly averages of opening and closing balances of the value of investment. The AO has considered averages of investment in Birla Sunlife Mutual Fund Growth Plan and Daily Regular Dividend Plan. However, as is stated by the appellant, the entire investment in Birla Sunlife Daily Dividend Plan was done in December and redeemed in same month. Further, the growth plan of the mutual fund yielded only appreciation in the value of units which is taxable as capital gain i.e. it does not yield any tax exempt income. Thus, investment made in the Growth Plan cannot be considered while computing disallowance under Rule 8D. At the same time, investment in Daily Dividend Plan being made and redeemed in the same month makes the working of Rule 8D impossible. Thus, in this case, it is not possible to determine the annual average of monthly averages of opening and closing balance of value of investment from which it is not or shall not form part of the total income. In this respect, the facts of this year are different from earlier assessment years.

7.3.1 I also find force in the claim of the appellant that no expenses could have been incurred on earning tax exempt income which was very small. The appellant had been regularly investing in the same mutual fund for last many years. Moreover, in calculation done by the AO, no direct interest/other expenses pertaining to tax exempt income has been arrived at.

In view of the above, I am of the considered opinion that the disallowance u/s 14A is not sustainable in this case. The same is accordingly directed to be deleted. Ground No. 2 is allowed."

3. Suffice to say, the Revenue could hardly rebut the learned CIT(A)/NFAC's clinching findings in para 7.3 that not only the assessee's income derived from mutual funds unit stood redeemed in the same month followed by its assessment as taxable capital gains but also there is no denial to the fact that the impugned

computation formula prescribed under Rule 8D(2)(iii) stands rendered unapplicable here (supra). We thus find no reason to interfere with the lower appellate findings deleting section 14A read with Rule 8D disallowance in very terms. The Revenue fails in the instant sole substantive issue as well as in the main appeal ITA No.5808/Del/2024 therefore.

4. Coming to the assessee's cross appeal ITA No. 5975/Del/2024, learned counsel vehemently argues that the CIT(A)/NFAC has gravely erred in law and on facts in not even adjudicating its corresponding substantive ground no. 3 to 5 seeking to reverse the CPC's section 143(1) processing disallowing/adding the corresponding expenditure claims. We note in this factual backdrop that the learned CIT(A)'s detailed discussion in para 8 makes it clear that the assessee's separate appeal preferred against the CPC's section 143(1) processing is already pending before the first appellate authority. We are accordingly of the view that given the fact that section 246A(1)(a) prescribes a separate remedy of the appeal to be filed against section 143(1) processing, learned CIT(A)/NFAC's approach not adjudicating the assessee's corresponding ground in appeal

directed against the regular section 143(3) assessment could not be found fault with. We thus uphold the impugned lower appellate findings to the very extent without commenting anything upon merits of the case. It is further made it clear that the assessee shall indeed be at liberty to take recourse of legal remedy(ies) to pursue its section 143(1) appeal, if so advised.

No other ground or argument has been pressed before us.

5. These Revenue's and assessee's cross appeals ITA Nos.5808/Del/2024 and 5975/Del/2024 are dismissed. A copy of this common order be placed in the respective case files.

Order pronounced in the open court on 16th January, 2026

Sd/-	***Sd/-***
(S. RIFAUR RAHMAN)	**(SATBEER SINGH GODARA)**
ACCOUNTANT MEMBER	**JUDICIAL MEMBER**

Dated: 16th January, 2026.

RK/-

Copy forwarded to:

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

Asst. Registrar, ITAT, New Delhi