

आयकर अपीलिय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad 'B' Bench, Hyderabad

Before Shri Manjunatha G., Accountant Member
and
Shri Ravish Sood, Judicial Member

आ.अपी.सं /**ITA No.1778/Hyd/2025**
(निर्धारण वर्ष/Assessment Year:2017-18)

Apex Urban Infrastructure Private Limited, Hyderabad. PAN: AAFCP1027Q	Vs.	DCIT, Central Circle-2(3), Hyderabad.
(Appellant)		(Respondent)
निर्धारिती द्वारा/Assessee by:	Shri P. Murali Mohan Rao, CA	
राजस्व द्वारा/Revenue by:	Shri K. Vinoth Kannan, Sr. AR	
सुनवाई की तारीख/Date of Hearing:	06/01/2026	
घोषणा की तारीख/Date of Pronouncement:	13/01/2026	

आदेश / ORDER

PER. RAVISH SOOD, J.M:

The present appeal filed by the assessee company is directed against the order passed by the Commissioner of Income Tax (Appeals)-12, Hyderabad, which in turn arises from the order passed by the Assessing Officer (for short, "AO") under section 143(3) of the Income Tax Act, 1961 (for short, "the Act"), dated 31/10/2019 for the Assessment Year (AY) 2017-18. The assessee company has assailed the impugned order of the CIT(A) on the following grounds of appeal before us:

1. "The order of the CIT(A) passed u/s 250 of the Act dated 05-08-2025 is erroneous both on facts and in law to the extent the order is prejudice to the interests of the appellant.
2. The Ld. CIT(A) erred in upholding the disallowance made by AO, wrongly characterizing the interest paid for delayed payment of service tax as penal in nature.
3. The Ld. CIT(A) erred in law and on facts, by upholding the disallowance of Rs. 13,200 in respect of interest on late payment of service tax by treating the same as penal in nature and disallowed u/s 37 of the Act.
4. The Ld. CIT(A) ought to have appreciated the fact that, as per Explanation 1 to section 37(1) of the Act, interest on late payment of service tax is an extension of tax liability and accordingly, such interest is allowable as a deduction u/s 37(1) of the Act.
5. The Ld. CIT(A) had grossly erred in confirming the disallowance u/s 14A r.w. Rule 8D of Rs. 30,05,833/- without appreciating the fundamental precondition (existence of exempt income during the year) for invoking section 14A of the Act.
6. The Ld. CIT(A) erred in upholding the AO's action of applying Rule 8D without recording mandatory satisfaction as required u/s 14A(2) & (3) of the Act.
7. The Ld. CIT(A) ought to have appreciated the fact that mere existence of investments and interest-bearing loans is not sufficient to invoke Rule 8D, without establishing a direct nexus, which the AO failed to do.
8. The Ld. CIT(A) erred in upholding the AO's presumption that investments were made from borrowed funds without considering the appellant's evidence that it had sufficient non- interest-bearing own funds to cover the investment value.
9. The Ld. CIT(A) ought to have appreciated the fact that such investment made in the group company was for strategic business purpose and not for earning dividend income or any other exempt income.
10. Appellant may, add or alter or amend or modify or substitute or delete and/or rescind all or any of the grounds of appeal at any time before or at the time of hearing of the appeal."

2. Succinctly stated, the assessee company, which is engaged in the business of real estate, had filed its return of income for AY 2017-18 on 28/10/2017, declaring an income of Rs. 36,55,870/-. Subsequently, the

case of the assessee company was selected for scrutiny assessment under CASS.

3. Thereafter, the AO vide his order passed under section 143(3) of the Act, dated 31/10/2019 assessed the income of the assessee company at Rs.66,74,900/-, after making certain additions /disallowances, viz., (i) disallowance of interest paid on service tax: Rs.13,200/-; and (ii) disallowance under section 14A r.w. Rule 8D2(i) of the Act: Rs. 30,05,833/-.

4. Aggrieved, the assessee company carried the matter in appeal before the CIT(A) but without success.

5. The assessee company aggrieved with the order of the CIT(A) has carried the matter in appeal before us.

6. We have heard the Learned Authorized Representatives of both parties, perused the orders of the authorities below and the material available on record, as well as considered the judicial pronouncements that have been pressed into service by them to drive home their respective contentions.

7. Shri P. Murali Mohan Rao, CA, Learned Authorized Representative (for short, "Ld. AR") for the assessee company at the

threshold of hearing of the appeal, submitted that both the lower authorities had grossly erred in law and facts of the case in making/sustaining the disallowance of the interest paid by the assessee company on delayed payment of service tax amounting to Rs.13,200/- under section 37(1) of the Act. Elaborating on his contention, the Ld. AR submitted that as the interest paid by the assessee company on the delayed payment of service tax is compensatory in nature, therefore, the same could not have been disallowed by bringing it within the meaning of "Explanation 1" of section 37 of the Act, i.e., by treating the same as penal in nature. The Ld. AR submitted that as the interest on the delayed payment of service tax was wholly and exclusively for the purpose of the business of the assessee company, therefore, the same was clearly allowable as a deduction under section 37(1) of the Act. The Ld. AR to buttress his contention had relied upon the judgment of the **Hon'ble Supreme Court** in the case of **Lachmandas Mathuradas vs. CIT (2002) 254 ITR 799 (SC)**.

8. Apropos the disallowance under section 14A r.w. Rule 8D(2)(i) of Rs. 30,05,833/- made by the AO, which, thereafter, had been sustained by the CIT(A), the Ld. AR submitted that the said disallowance in the absence of any exempt income earned by the assessee company cannot be sustained and is liable to be struck down on the said count

itself. Elaborating on his contention, the Ld. AR submitted that the assessee company during the subject year had, though made an investment of Rs. 35 crores in Compulsorily Convertible Preference Shares of M/s. Phoenix Infocity Private Limited, i.e., a group entity, but based on the fact that it had not received any dividend income on the said investments during the subject year, no disallowance under section 14A of the Act was called for in its case. Elaborating on his contention, the Ld. AR submitted that as the assessee company during the subject year had not received any exempt income, therefore, there was no justification for the authorities below to have worked out the disallowance under section 14A of the Act. The Ld. AR in support of his aforesaid contention had relied upon the judgment of the **Hon'ble Supreme Court** in the case of **CIT Vs. Chettinad Logistics (P.) Ltd (2018) 95 taxmann.com 250 (SC)**. The Ld. AR submitted that the Hon'ble Apex Court in its aforesaid judgment has held that section 14A cannot be invoked where no exempt income was earned by the assessee in the relevant assessment year.

9. Per contra, Shri Vinoth Kannan, Learned Senior Departmental Representative (for short, "Ld. Sr-DR"), relied upon the orders of the lower authorities. The Ld. Sr-DR submitted that as the assessee company during the subject year had made a substantial investment of

Rs. 35 crores in shares of its group entity, viz., M/s. Phoenix Infocity Private Limited out of its interest bearing borrowed funds, therefore, the AO had rightly worked out the disallowance under section 14A r.w. Rule 8D(2)(i) of the Act of Rs. 30.05 lakhs (approx.). The Ld. Sr-DR in support of his contention that even in a case where the assessee had made investments in exempt income yielding assets, but not received any exempt income during the subject year, disallowance under section 14A of the Act is called for, had relied upon the judgment of **the Hon'ble Supreme Court** in the case of **Maxopp Investment Ltd. v. CIT [2018] 91 taxmann.com 154 (SC)**.

10. We have given thoughtful consideration to the contentions advanced by the Learned Authorized Representatives of both parties in the backdrop of the orders of the authorities below.

11. We shall first deal with the Ld. AR's contention that as the assessee company had in the subject year not received any exempt income, therefore, as per the pre-amended section 14A of the Act, as was available on the statute before it is amendment vide the Finance Act, 2022 w.e.f 01/04/2022, in the absence of any exempt income no disallowance under section 14A of the Act could have been made in its hands. We find that the aforesaid issue is clearly covered by the

judgment of the **Hon'ble High Court of Madras** in the case of **Commissioner of Income Tax Vs. Chettinad Logistics Pvt. Ltd. (2017) 248 Taxman 55 (Mad.)**. The Special Leave Petition (SLP) (Civil) No.16194 of 2018 filed by the department before the Hon'ble Apex Court against the aforesaid order of the Hon'ble High Court of Madras in the case of Chettinad Logistics Pvt. Ltd. (supra) has been dismissed by the **Hon'ble Apex Court** in **CIT Vs. Chettinad Logistics (P) Ltd. (2018) 95 taxmann.com 250 (SC)**. Rather, we find that even the review petition filed by the revenue has also been dismissed by the **Hon'ble Apex Court** vide its order passed in **Commissioner of Income Tax (Central) Vs. M/s. Chettinad Logistics Pvt. Ltd. (2019) 105 CCH 226 (SC)**. Also, we find that the Hon'ble Apex Court has taken the same view in the case of **Principal Commissioner of Income Tax Vs. Oil Industry Development Board (2019) 262 Taxman 102 (SC)**, wherein the order of the Hon'ble High Court of Delhi in the case of Principal Commissioner of Income Tax Vs. Oil Industries Development Board (2018) 101 CCH 452 (Del. HC) was approved.

12. Before parting on the aforesaid issue, we may herein observe, that though the legislature vide its amendment made available on the statute by the Finance Act, 2022 has inserted an "Explanation" to Section 14A of the Act, as per which, notwithstanding anything to the contrary

contained in the Act, the provisions of Section 14A shall apply in a case where the income, not forming part of the total income under the Act, has not accrued or arisen or has not been received during the subject year and the expenditure has been incurred during the said previous year in relation to such exempt income, but the same is effective from April 1, 2022 and cannot be presumed to have retrospective effect. Our aforesaid view is fortified by the judgment of **Hon'ble High Court of Delhi** in the case of **Pr. CIT Vs. Era Infrastructure (India) Ltd. (2022) 114 CCH 219 (Delhi)** and that of the **Hon'ble High Court of Madhya Pradesh** in **Pr. CIT Vs. Keti Constructions (2024) 162 taxmann.com278 (MP)**, wherein it has been held that the amendment made available in the statute vide the Finance Act, 2022 in Section 14A is effective from 01.04.2022 and cannot be permitted with retrospective effect. The **Grounds of appeal Nos. 5 to 9** are allowed in terms of our aforesaid observations.

13. We shall now deal with the Ld. AR's claim that both the authorities below had grossly erred in law and facts of the case in disallowing the claim of the assessee company for the deduction of interest on late payment of service tax of Rs. 13,200/-.

14. We have given thoughtful consideration to the aforesaid issue and find that the **Hon'ble Supreme Court** in the case of **Lachmandas Mathuradas vs. CIT (2002) 254 ITR 799 (SC)** has held that interest on arrears or outstanding balance of sales tax is compensatory in nature and would be allowable as a deduction in computing profits of a business. The Hon'ble Apex Court, while so concluding, had relied upon its earlier order passed in the case of **Saraya Sugar Mills (P.) Ltd vs. CIT (Civil Appeal No.830 of 1979, dated 29/02/1996)**, wherein it was held that interest on arrears of tax is compensatory in nature and not penal. Also, we find that the ITAT, Hyderabad "B" Bench in DCIT vs. PLR Projects Private Limited (ITA No.615/Hyd/2019, dated 21/09/2021) by relying upon the aforesaid judgment of the Hon'ble Apex Court in the case of **Lachmandas Mathuradas vs. CIT (2002) 254 ITR 799 (SC)** had concluded that the interest on delayed payment of service tax being compensatory in nature is allowable as a deduction under section 37 of the Act. Apart from that, the ITAT, "C" Bench, Chennai in Price Holdings Madras (P) Ltd vs. DCIT, ITA No.524/Chny/2021, dated 02/11/2022 had taken a similar view and observed that as interest paid on belated payment of service tax is not a penalty, thus, the same cannot be disallowed under section 37(1) of the Act. We, thus, respectfully following the aforesaid judicial pronouncements/orders herein conclude

that as the interest paid by the assessee company on the delayed payment of service tax is compensatory in nature, therefore, the same could not have been disallowed by the AO under section 37(1) of the Act. Accordingly, we herein direct the AO to vacate the disallowance of Rs. 13,200/- made by him. The **Grounds of appeal Nos. 2 and 3** are allowed in terms of our aforesaid observations.

15. The **Grounds of appeal Nos. 1 and 10**, being general, are dismissed as not pressed.

16. Resultantly, the appeal filed by the assessee company is allowed in terms of our aforesaid observations.

Order pronounced in the open court on 13th January, 2026.

Sd/- (MANJUNATHA G.) ACCOUNTANT MEMBER	Sd/- (RAVISH SOOD) JUDICIAL MEMBER
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Hyderabad,

Dated: 13th January, 2026.

OKK / SPS

Copy to:

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2	DCIT, Central Circle-2(3), Hyderabad.
3	The Pr.CIT, Central Circle, Hyderabad
4	The DR, ITAT Hyderabad Benches
5	Guard File

By Order

Sr. Private Secretary,
ITAT, Hyderabad.