

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'E' BENCH
MUMBAI**

**BEFORE: SHRI AMIT SHUKLA, JUDICIAL MEMBER
&
SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER**

**ITA No.7773/Mum/2025
(Assessment Year :2018-19)**

Elara Capital (India) Private Limited Tower 3, 21 st Floor One International Centre Senapati Bapat Marg Elphinstone Road (W) Mumbai- 400 013	Vs.	The ACIT-Circle 6(2)(2), Mumbai
PAN/GIR No.AABCE6487B		
(Appellant)	..	(Respondent)

Assessee by	Shri Milin Dattani a/w. Ms. Nidhi Jain
Revenue by	Shri Hemanshu Joshi, Sr. DR
Date of Hearing	05/02/2026
Date of Pronouncement	10/02/2026

आदेश / O R D E R

PER AMIT SHUKLA (J.M):

The present appeal has been filed by the assessee against the order dated 24.10.2025 passed by the National Faceless Appeal Centre, Delhi, arising out of the assessment framed under section 143(3) of the Income-tax Act, 1961 for the assessment year 2018-19.

2. The assessee is aggrieved only by the disallowance of ₹39,48,000/- made by the Assessing Officer under section 14A of the Act and sustained by the learned Commissioner (Appeals). It is an admitted and undisputed fact on record that during the year under consideration, the assessee had not earned or received any income which does not form part of total income under the Act. No dividend income or any other exempt income was reported in the return of income, and this factual position has not been controverted by the Revenue authorities at any stage of proceedings.

3. Despite the aforesaid admitted factual position, the Assessing Officer proceeded to invoke the provisions of section 14A read with Rule 8D and computed disallowance of ₹39,48,000/- by applying 1% of the annual average of monthly investments. The Assessing Officer has neither recorded any objective satisfaction as mandated under section 14A(2) nor demonstrated any proximate nexus between the alleged expenditure and any income not forming part of total income. The learned Commissioner (Appeals) confirmed the said disallowance primarily by placing reliance upon the amendment brought to section 14A by the Finance Act, 2022.

4. We have carefully considered the rival submissions, perused the material available on record, and examined the legal position governing the issue. The short but important question which arises for consideration is whether a disallowance under

section 14A can be sustained in a year where admittedly no exempt income has been earned by the assessee.

5. The jurisprudence on this issue is now well settled. Section 14A is attracted only when there exists income which does not form part of total income under the Act. The existence of exempt income during the relevant previous year is a sine qua non for invoking the provisions of section 14A. In the absence of such income, there can be no occasion to disallow any expenditure allegedly incurred in relation thereto.

6. The Hon'ble Delhi High Court in PCIT v. Era Infrastructure (India) Ltd. (2022) 448 ITR 674 has comprehensively examined this issue and has categorically held that where no exempt income has been earned during the year, no disallowance under section 14A can be made. What is of particular relevance is that the Hon'ble High Court has also considered the amendment introduced by the Finance Act, 2022, whereby an Explanation was inserted to section 14A with effect from 01.04.2022, and has unequivocally held that the said amendment is prospective in nature and does not have retrospective operation. The Hon'ble High Court observed that the amendment seeks to alter the existing legal position and cannot be construed as declaratory or clarificatory. Applying the settled principles of statutory interpretation, it was held that the amendment would apply only from assessment year 2022-23 onwards and cannot be invoked

to sustain disallowance for earlier years where the legal position stood settled in favour of the assessee.

7. The aforesaid ratio has been consistently followed in subsequent decisions. The Hon'ble Delhi High Court in *PCIT v. Keti Construction Ltd.* (2024) 475 ITR 182 reiterated that in the absence of exempt income, no disallowance under section 14A is permissible and that the Finance Act, 2022 amendment does not apply retrospectively. Similar view has been taken by the Hon'ble Bombay High Court in *PCIT v. Williamson Financial Services Ltd.* (2024) 301 Taxman 102, wherein it has been clearly held that section 14A cannot be invoked in a year where no exempt income is earned.

8. Thus, the consistent and binding judicial view emanating from the High Courts is that the amendment to section 14A by the Finance Act, 2022 does not unsettle the settled legal position for earlier assessment years and that in the absence of exempt income, no disallowance under section 14A can be made.

9. In the present case, the assessment year involved is A.Y. 2018-19, which is much prior to the effective date of the amendment. Once it is an admitted position that no exempt income has been earned by the assessee during the year, the very foundation for invoking section 14A fails. The disallowance made by the Assessing Officer, and sustained by the learned

Commissioner (Appeals), is therefore unsustainable both on facts and in law.

10. Respectfully following the binding decisions of the Hon'ble High Courts and applying the settled legal position to the facts of the present case, we direct the Assessing Officer to delete the disallowance of ₹39,48,000/- made under section 14A of the Act.

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

Order pronounced in the open court in 10th February, 2026.

Sd/-
(GIRISH AGRAWAL)
ACCOUNTANT MEMBER
Mumbai; Dated 10/02/2026
KARUNA, *sr.ps*

Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai