



आयकर अपीलीय अधिकरण 'ब' न्यायपीठ, लखनऊ।
**IN THE INCOME TAX APPELLATE TRIBUNAL
LUCKNOW BENCH "B", LUCKNOW**

श्री कुल भारत, उपाध्यक्ष एवं श्री अनादी नाथ मिश्रा, लेखा सदस्य के समक्ष
**BEFORE SHRI KUL BHARAT, VICE PRESIDENT AND
SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER**

ITA No. 177/LKW/2022
Assessment Year: 2017-18

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| Rohit Real Estates Pvt Ltd 122/623 Shastri Nagar, Kanpur-208005. | v. | Asstt. Commissioner of Income Tax Circle- 2(3)(1) Aaykar Bhawan, 16/69 Civil Lines, Kanpur- 208001. |
| PAN:AADCR2383P | | |
| (Appellant) | | (Respondent) |

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|------------------------|--------------------------------------|----|------|
| Appellant by: | Shri P. K. Kapoor, C.A. | | |
| Respondent by: | Shri R. R. N. Shukla, Addl. CIT (DR) | | |
| Date of hearing: | 27 | 04 | 2026 |
| Date of pronouncement: | 06 | 05 | 2026 |

ORDER

PER KUL BHARAT, VICE PRESIDENT.:

This appeal, by the assessee, is directed against the order of the Learned Commissioner of Income-tax (Appeals)/National Faceless Appeal Centre (NFAC), Delhi dated 16.08.2022 pertaining to the assessment year 2017-18. The assessee has raised the following grounds of appeal: -

"1. Ld. CIT(A) has erred in law and on facts, in upholding disallowance of Rs.2,54,373/- that had been made in the regular assessment order dated 28.08.2019, by applying section 14A of the Income Tax Act, 1961 read with Rule 8D of the Income Tax Rules 1962;

2. the Authorities below, have misconstrued/misapplied the explanation below section 14A of the Act, that had been inserted by the Finance Act, 2022;

3. in any case the explanation, even if clarificatory of nature, has no retrospective effect and the disallowance made/sustained by the authorities below, is wholly erroneous;

4. the order appealed against is contrary to the facts, law and principles of natural justice."

2. The facts giving rise to the present appeal, in brief are that the assessee is a company duly incorporated under the Companies Act and filed its return of income declaring total income at Rs.8,22,96,116/- on 29.10.2017 for the A.Y. 2017-18. The case was selected for 'limited scrutiny' through Computer Assisted Scrutiny System (CASS) to examine and verify the expenses incurred for earning exempt income. Accordingly, a notice u/s 143(2) of the Income Tax Act, 1961 ("Act", for short) was issued to the assessee and specific query was raised with regard to the expenditure incurred for earning of exempt income in the form of dividend at Rs.31,070/-. The explanation of the assessee that it had not incurred any expenditure for earning the exempt income was not found acceptable by the Assessing Authority. Therefore, he proceeded to invoke provisions of Section 14A(2) r.w. Rule 8D(2)(ii) of the Income Tax Rules, 1962 ("Rules", for short). Thereby, he made an addition of Rs.2,54,373/- and assessed income at Rs.8,25,50,493/-. Aggrieved against this, the assessee preferred an appeal before the Ld. CIT(A) who also sustained the addition and dismissed the appeal of the assessee. Now, the assessee is in appeal before this Tribunal.

3. Apropos to the grounds of appeal, the Ld. Counsel for the assessee, Shri P. K. Kapoor, C.A., advanced multifold submissions. Firstly, he contended that the law mandates recording of proper satisfaction by the Assessing Officer as to why the suo-moto disallowance made by the assessee is not correct. He further submitted that in the present case, the exempt income earned by the assessee is Rs.31,070/-, whereas the disallowance computed by the Assessing Officer is much higher than such exempt income, which is impermissible in law. In support of his contentions, the Ld. Counsel placed reliance on various judicial pronouncements, including the judgments of the

Hon'ble Bombay High Court in *PCIT vs. JSW Energy Ltd.* (2023) 153 taxmann.com 208 (Bom), *PCIT vs. Tata Capital Ltd.* (2024) 161 taxmann.com 557 (Bom), and *PCIT vs. Keti Construction Ltd.* (2024) 162 taxmann.com 278, as well as the judgment of the Hon'ble Calcutta High Court in *PCIT vs. Avantha Realty Ltd.* (2024) 164 taxmann.com 376 (Cal). Reliance was also placed on the decisions in *DCIT vs. Welspun Steel Ltd.* (ITA No. 2137/Mum/2021), *Essilor India Pvt. Ltd. vs. DCIT* (IT(TP)A No. 888/Bang/2022), *Unilever Industries (P.) Ltd. vs. DCIT* (2024) 158 taxmann.com 599 (Mum), *SRS Industries (P.) Ltd. vs. ITO* (2024) 163 taxmann.com 480 (Raipur-Trib), and *Zodiac Ventures Ltd. vs. ITO* (ITA No. 4754/Mum/2023). It was further submitted that the Assessing Officer has failed to record the requisite satisfaction as contemplated under the provisions of law before invoking the disallowance.

4. On the other hand, the Ld. Departmental Representative for the Revenue opposed the submissions and drew our attention to the assessment order to buttress his contention that this is not a case where the Assessing Officer had failed to record satisfaction. In fact, the Assessing Officer had duly recorded the requisite satisfaction. However, with regard to the submission that the disallowance cannot exceed the exempt income earned by the assessee, he fairly conceded that the judicial pronouncements on this issue is against the Revenue.

5. We have heard the Ld. Representatives of the parties and perused the material available on records. Undisputedly, in the present case, the assessee earned dividend income of Rs.31,070/- and made a suo-moto disallowance of Rs.3,085/-. However, the AO computed disallowance at Rs.2,57,458/-. So far as the question of disallowance of expenditure made *suo-moto* by the

assessee is concerned, such disallowance depends upon the volume of transaction made and quantum of the expenditure incurred by the assessee for earning the exempt income. In the instant case, the administrative expenses disallowed by the assessee are not commensurate with the volume of investments. Therefore, the contention of the assessee that the satisfaction recorded by the Assessing Officer is unjustified is devoid of any merit. However, we find merit in the contention of the assessee that the Co-ordinate Bench of this Tribunal in the case of *Unilever Industries Pvt. Ltd. vs. DCIT* (2024) 158 taxmann.com 599 (Mum-Trib), following the judgment of the Hon'ble Karnataka High Court in *Pragathi Krishna Gramin Bank vs. Jt. CIT* (2018) 95 taxmann.com 41 / 256 Taxman 349 (Karn), has deleted similar disallowances. Further, in the case of *M/s. Nirved Traders (P.) Ltd. vs. Dy. CIT* (IT Appeal No. 149 of 2017) dated 23.04.2019, has held that the disallowance computed under Rule 8D(2)(ii) should not exceed the exempt income so earned. Respectfully following the aforesaid judicial precedents, we direct the Assessing Officer to restrict the disallowance to the extent of the exempt income i.e. Rs.31,070/- earned by the assessee. Grounds raised in this appeal are partly allowed.

6. In the result, the appeal of the assessee is partly allowed.

Order pronounced in the open Court on 06/05/2026.

Sd/-

[अनादी नाथ मिश्रा]

[ANADEE NATH MISSHRA]

लेखा सदस्य/ACCOUNTANT MEMBER

DATED: 06/05/2026

Vijay Pal Singh, (Sr. PS)

Sd/-

[कुल भारत]

[KUL BHARAT]

उपाध्यक्ष/VICE PRESIDENT

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2. Respondent
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4. DR
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By order

