

No sec. 14A disallowance when there is no exempt income during the year, says Delhi ITAT

Summary – The Delhi ITAT in a recent case of Ms. Amita Verma, (the Assessee) held that where assessee contended that during year it had no exempt income and, therefore, no disallowance under section 14A could be made and Assessing Officer rejected assessee's contention, in view of decision of Delhi High Court, no disallowance under section 14A can be made, where there is no exempt income

Facts

- The assessee contended that during the year it had no exempt income and, therefore, no disallowance under section 14A could be made.
- The Assessing Officer relying upon the decision of the Special Bench of the Delhi Tribunal rendered in the case of *Cheminvest Ltd. v. ITO* [\[2009\] 121 ITD 318](#) rejected the assessee's contention.
- The Commissioner (Appeals) sustained the disallowance made by the Assessing Officer.
- On second appeal:

Held

- The decision of Tribunal in the case of *Cheminvest Ltd. (supra)* relied upon by the Assessing Officer has been reversed by jurisdictional High Court in the case of *Cheminvest Ltd. v. CIT* [\[2015\] 378 ITR 33/234 Taxman 761/61 taxmann.com 118 \(Delhi\)](#).
- The revenue has not disputed the fact that during the year the assessee has no exempt income and, therefore, the ratio of the above decision of jurisdictional High Court would be squarely applicable. The identical finding is recorded by the Assessing Officer in each year, *i.e.*, every year, the Assessing Officer made the disallowance under section 14A despite earning of no exempt income by the assessee relying upon the decision of the Tribunal in the case of *Cheminvest Ltd. (supra)*. Since the above decision has been reversed by jurisdictional High Court, it would have to be held that no disallowance under section 14A can be made, where there is no exempt income.