Principal Commissioner of Income Tax Delhi-4 v. Nestle India Ltd.

ITA 281/2023 (CM APPL. 25640/2023)

2023:DHC:4146-DB | ITA 281/2023 | 2023-05-17

Nestle's licence-fee, section 14A and device-depreciation relief sustained for AY 2013-14.

Income-tax Act,1961: sections 14A, 32

High Court of Delhi | 2-judge bench (Division Bench) | Justice Rajiv Shakdher | Justice Girish Kathpalia

Assessment years: 2013-14

01 FACTS OF THE CASE

Revenue challenged relief concerning licence fees of Rs.1,17,83,98,395, reduction of section 14A disallowance from Rs.33,42,193 to Rs.20,13,989, and depreciation disallowance of Rs.4,50,01,287 for energy-saving and pollution-control devices.

Source: PDF pp.1–2

02 DISCUSSION BY THE HON'BLE COURT

Revenue accepted that the licence-fee issue was covered by Nestle's earlier judgment and the section 14A issue by HT Media and Coforge. The AO had not recorded dissatisfaction with the voluntary disallowance. On depreciation, the AO demanded comparative pollution-performance results despite undisputed purchase and installation.

Source: PDF pp.2–6

03 JUDICIAL DECISION

The Court sustained the voluntary section 14A disallowance and the depreciation relief. Section 32 required purchase and use; device performance was not a basis for denial on this record, where installation was undisputed.

Source: PDF pp.4–6, paras 6–10

04 OUTCOME / IN WHOSE FAVOUR

No substantial question of law arose; Revenue's appeal and pending application disposed of without interference.

Source: PDF p.6, paras 10–11

05 EXPERT COMMENTS

AKHB Expert Comments — editorial analysis, distinct from the Court's findings.

Keep dissatisfaction separate from a formula calculation: The AO disregarded Nestle's voluntary amount without recording why it was unacceptable. The Court sustained Rs.20,13,989 for this year; it did not eliminate section 14A entirely. A comparable review should examine the offered computation and the AO's recorded reasons before treating Rule 8D as an automatic substitute. (PDF pp.2–4)

Use and performance are different questions: The Court treated undisputed installation as demonstrating use on these facts and rejected the demand for comparative pollution results. It did not abolish the requirement to put an asset to use or decide that mere purchase always suffices. Purchase and installation evidence remain relevant even though commercial or technical success is not an added depreciation test. (PDF pp.4–6)

Separate the present year from the common Tribunal order: The underlying Tribunal order covered five years, but ITA 281/2023 concerns AY 2013-14 alone. The licence-fee issue was covered by the earlier Nestle authority rather than freshly analysed here. Neither the reproduced multi-year table nor that concession should be turned into a new blanket holding for other years or different licensing arrangements. (PDF pp.1–3, 6)

Source: PDF pp.2–4

SOURCE & VERIFICATION

Original High Court judgment PDF — AKHB source repository

Complete 6-page original reviewed; source bytes verified.

Full original and all five panels re-reviewed on 21 October 2026.

Open cited source rendition

Complete original source and all five note panels checked; original docket identities preserved.

STATUTORY SCOPE

Current law and subsequent treatment not independently verified.

LATER TREATMENT

Source checked 2026-10-21. Subsequent proceedings and current judicial treatment have not been independently verified.

AI DISCLOSURE

AI-assisted research checked against the identified source. Extraction, interpretation or omission errors remain possible. Source review does not mean independent approval by a practising professional. Verify every material statement against the complete original judgment.

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