

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'F', NEW DELHI**

Before Sri G.D. Agarwal, Hon'ble V.P. And Sri C.M.Garg, JM

ITA No. 704/Del./2014 : Asstt. Year : 2009-10

Pioneer Urban Land & Infrastructure Ltd. A-22, Green Park, 3 rd Floor, Aurbindo marg New Delhi	Vs	Addl. CIT Range -14 New Delhi
(APPELLANT)		(RESPONDENT)
PAN No. AACCP8576B		

**Assessee by : Sh. V.K.Agarwal, AR
Revenue by : Sh. R.S. Negi, Sr. DR**

Date of Hearing : 02.06.2016	Date of Pronouncement : 01.07.2016
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ORDER

PER C.M.Garg, J.M.

This appeal by the assessee has been filed against the order of the CIT(A) dated 12.11.2013 passed in first appeal No. 363/11-12 for AY 2009-10.

The sole ground raised by the assessee reads as follows :

“The CIT(A) has erred in law and on facts in confirming the disallowance of Rs. 8,86,849/- u/s 14A r.w. Rule 8D ignoring the facts and submissions placed on record. Thus, the disallowance so made should be deleted.”

2. We have heard arguments of both the sides and carefully perused the relevant materials placed on the record of the Tribunal. At the very outset, the Ld. AR placing reliance on the decision of Hon’ble High Court of Delhi in the case of Joint Investments Pvt. Ltd. Vs. CIT 372 ITR 695 (Del) contended that the disallowance in any case can not be made more than exempt income. The ld. AR pointed out that the assessee earned dividend income of Rs. 1,49,789/- whereas the AO disallowed amount of Rs. 8,86,849/- which is not a proper and justified approach of the AO.

3. The Ld. Departmental Representative (DR) strongly supported the action of the AO as well as impugned order of CIT(A). However, we fairly accepted that as per ratio of the decision of Hon’ble High Court in the case of Joint Investment Pvt. Ltd. Vs. CIT (Supra) the disallowance can not be made beyond actual exempt income. The Ld. DR also did not express any serious objection to the contention of Ld. AR that the disallowance may be restricted to exempt income.

4. On carefully consideration above submissions of both the sides and keeping in view the ratio of the decision of Hon’ble Jurisdictional

High Court in the case of Joint Investment (supra). We are of the considered opinion that disallowance cannot be made more than exempt income which is Rs. 1,49,789/- for AY 2009-10 thus disallowance is restricted to exempt income.

5. Consequently, sole ground of the assessee is partly allowed as indicated above.

Order Pronounced in the Court on 01/07/2016.

Sd/-
(**G.D.Agarwal**)
VICE PRESIDENT

Sd/-
(**C.M.Garg**)
JUDICIAL MEMBER

Dated: 01/ 07/2016

Binita

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)

		Date	<u>Initial</u>	
1.	Draft dictated on (hand written)	20.06.2016		
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8.	Date on which file goes to the AR			
9.	Date on which file goes to the Head Clerk.			
10.	Date of dispatch of Order.			