

**INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "E": NEW DELHI  
BEFORE SHRI I.C.SUDHIR, JUDICIAL MEMBER  
AND  
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER**

ITA No. 4735/Del/2014  
(Assessment Year: 2011-12)

Mercantile Capital and Financial Services Pvt. Ltd, G-71, World Trade Centre, Barakhamba Lane, New Delhi PAN:AAACM5551D	Vs.	Addl. CIT, Range-6, New Delhi
<b>(Appellant)</b>		<b>(Respondent)</b>

Assessee by :	Sh. Sailesh Gupta, Adv
Revenue by:	Sh. Rajesh Kumar, Sr. DR
Date of Hearing	30/05/2017
Date of pronouncement	31/05/2017

**ORDER**

**PER PRASHANT MAHARISHI, A. M.**

1. This appeal is preferred by the assessee against the order of the Id CIT(A)-IX, New Delhi dated 24.06.2014 dismissing the appeal of the assessee confirming the action of the Id Assessing Officer in making an addition of Rs. 420530/- u/s 14A of the Income Tax Act in assessment order dated 26.12.2013 passed u/s 143(3) of the Act. the assessee has raised following two grounds of appeal:-

- "1. *That the order passed u/s 250(6) is wrong, bad in law and against the facts and circumstances of the case.*
2. *That the Id CIT(A) and AO has erred in law and on facts I disallowing total administrative expenditure amounting to Rs. 501201/- under 3<sup>rd</sup> limb of Rule 8D arbitrarily, without any justification and ignoring the facts that administrative expenses were incurred for carrying out the main business of financing by the appellant.*
- 2.1 *It id contended that the disallowance @0.5% of average investment under 3<sup>rd</sup> limb of Rule 8D is applicable on those investment from whom exempted income is earned and investment on which no exempt income*

*has been earned must be excluded for the propose of 0.5% disallowance in view of decision of various High Court.”*

2. The first ground of appeal is general in nature and therefore same is dismissed.
3. The second ground of appeal is against confirmation of addition of Rs. 420530/- u/s 14A of the Income Tax Act.
4. The brief facts of the case is that assessee is a non-banking financial company who filed its return of income on 20.09.2011 showing income of Rs. 7993683/-. During the year the assessee has earned exempt income of Rs. 36189/- as dividend income. The assessee itself has disallowed a sum of Rs. 4628287/- u/s 14A of the Act applying the provisions of Rule 8D of the Income Tax Rules, 1962 in its revised return of income filed on 29.03.2013. The assessee submitted the computation of disallowance vide para No. 3.3 of the order at Rs. 4628867/-. However, the Id Assessing Officer rejected the computation of the disallowance and recomputed the same and worked out disallowance u/s 14A at Rs. 5049397/-. As the assessee has already disallowed a sum of Rs. 4628867/- made the balance disallowance of Rs. 420530/- to the total income and computed the total income of the assessee at Rs. 12756222/- against the revised return income of Rs. 12356720/-. Assessee preferred appeal before the Id CIT(A) unsuccessfully and therefore, assessee in appeal before us.
5. The Id AR submitted that disallowance u/s 14A of the Income Tax Act cannot exceed the exempt income. He relied upon the decision of Hon'ble Delhi High Court in case of Liquid Investment and contested that appellant should succeed on this ground only.
6. The Id DR relied upon the orders of lower authorities.
7. We have carefully considered the rival contentions. Apparently the assessee has earned exempt income of Rs. 36189/- only and has already disallowed a sum of Rs. 4628867/- swallowing the entire amount of exempt income. The Hon'ble Delhi High Court in case of Joint Investment Pvt. Ltd. Vs. CIT 372 ITR 694 has held that disallowance u/s 14A cannot swallow the entire amount as it has happened in this case. Therefore, following the decision of the jurisdictional High Court we are of the opinion that as already assessee has disallowed much more than the exempt income of Rs. 36189/- no further disallowance can be made. In the result ground NO. 2 of the appeal of the assessee is allowed directing the Id Assessing Officer to delete the addition of Rs. 420530/- u/s 14A of the Act.

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

**Order pronounced in the open court on 31/05/2017.**

**-Sd/-**

**(I.C.SUDHIR)  
JUDICIAL MEMBER**

**-Sd/-**

**(PRASHANT MAHARISHI)  
ACCOUNTANT MEMBER**

Dated:31/05/2017  
*A K Keot*

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1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR  
ITAT, New Delhi