

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES : B : NEW DELHI

BEFORE SHRI R.S. SYAL, VICE PRESIDENT
AND
MS SUCHITRA KAMBLE, JUDICIAL MEMBER

ITA Nos.6876 to 6878/Del/2015

Assessment Years : 2009-10 to 2011-12

ACIT,
Central Circle-8 (Now CC-17),
ARA Centre, Jhandewalen,
New Delhi.

Vs. Sainik Mining & Allied
Services Ltd.,
129, Transport Centre,
Punjabi Bagh,
New Delhi.

PAN: AAACS2791P

CO Nos.128 to 130/Del/2016

(ITA Nos.6876 to 6878/Del/2015)

Assessment Years : 2009-10 to 2011-12

Sainik Mining & Allied Services
Ltd.,
129, Transport Centre,
Punjabi Bagh,
New Delhi.
PAN: AAACS2791P

Vs. ACIT,
Central Circle-8 (Now CC-17),
ARA Centre, Jhandewalen,
New Delhi.

(Appellant)

(Respondent)

Assessee By : Shri S.K. Tulsian, Advocate
Department By : Ms Rachna Singh, CIT, DR

Date of Hearing : 14.09.2017
Date of Pronouncement : 15.09.2017

ORDER

PER BENCH:

These three appeals by the Revenue and equal number of Cross Objections by the assessee relate to the assessment years 2009-10, 2010-11 and 2011-12. Since all the appeals involve a solitary issue of disallowance u/s 14A of the Income-tax Act, 1961 (hereinafter also called 'the Act'), we proceed to dispose them off by this consolidated order for the sake of convenience.

2. The facts relating to assessment year 2009-10 are that the assessee made certain investment in shares etc. No disallowance was offered u/s 14A of the Act read with Rule 8D. After considering the assessee's objections, the Assessing Officer made disallowance u/s 14A read with Rule 8D(2)(iii) at ½% of the average value of investments. This resulted into an addition of Rs.10,81,627/-. The Id. CIT(A) deleted the addition by noticing that the assessee had not earned any exempt dividend

income during the year. The Revenue is aggrieved against such deletion.

3. Having heard both the sides and perused the relevant material on record, it is found as an admitted position that the assessee did not earn any exempt income during all the three years under consideration. The Hon'ble Delhi High Court in *Cheminvest Ltd. vs. CIT (2015) 378 ITR 33 (Del)*, has held that if there is no exempt income, there can be no question of making any disallowance u/s 14A. Similar view has been taken by the Hon'ble jurisdictional High Court in *CIT vs. Holcim India P. Ltd. (2014) 90CCH 081-Del-HC*. In view of these binding precedents providing for not making any disallowance u/s 14A in the absence of any exempt income, which are squarely applicable to the facts of the instant case, we countenance the view taken by the Id. CIT(A).

4. Both the sides are in agreement that the facts and circumstances of the other two years under consideration are *mutatis mutandis* similar to the A.Y. 2009-10 discussed above inasmuch as in none of these years,

the assessee earned any exempt income. We, ergo, uphold the impugned orders for these years as well.

5. The Cross Objections filed by the assessee for all the three years are stated to be in support of the impugned orders.

6. In the result, all the appeals of the Revenue and the Cross Objections of the assessee are dismissed.

The order pronounced in the open court on 15.09.2017.

Sd/-

[SUCHITRA KAMBLE]
JUDICIAL MEMBER

Sd/-

[R.S. SYAL]
VICE PRESIDENT

Dated, 15th September, 2017.

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Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT (A)
5. DR, ITAT

AR, ITAT, NEW DELHI.