

आयकर अपीलीय अधिकरण, मुंबई न्यायपीठ 'SMC', मुंबई ।
IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCHES "SMC", MUMBAI
Before Shri Shamim Yahya, Accountant Member

ITA No.6337/Mum/2016 : Asst.Year 2012-2013

The Dy.Commissioner of Income-tax Central Circle 5(3) (Erstwhile DCIT CC-36) Mumbai.	बनाम/ Vs.	M/s.Shree Krishna Silk Industries Private Limited 2 nd Floor, Kamal Industrial Estate Veer Sawarkar Marg, Prabhadevi Mumbai – 400 025. PAN : AAACS5165K.
(अपीलार्थी /Appellant)		(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से /Appellant by : **Shri B.Satyanarayana Raju**
प्रत्यर्थी की ओर से /Respondent by : --- None ---

सुनवाई की तारीख / Date of Hearing : 18.05.2017	घोषणा की तारीख / Date of Pronouncement : 05.06.2017
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आदेश / ORDER

This appeal by the Revenue is directed against order of learned CIT(A) dated 27.07.2016 and pertains to assessment year 2012-2013.

2. Grounds of appeal read as under:-

“1. Whether on the facts and in the circumstances of the case and in law, the Ld.CIT(A) has erred in deleting the addition u/s 14A of the Income-tax Act, 1961 by ignoring the fact that the provisions of Section 14A apply even if no exempt income is actually earned or received during the year in any form whatsoever?

2. Whether on the facts and in the circumstances of the case and in law, the Ld.CIT(A) has erred in deleting the addition u/s 14A of the Income-tax Act, 1961 by ignoring the provisions of CBDT Circular No.5/2014 dated 11.02.2014 whereby it has

been clarified that Rule 8D r.w.s. 14A provides for the disallowance of expenditure even where the assessee in particular has not earned exempt income?”

3. I have heard the learned Departmental Representative. None appeared on behalf of the assessee. However, in my considered opinion the issue can be disposed of by hearing the learned DR and perusing the records.

4. I find that in this case disallowance under section 14A has been done. However, it was assessee's plea that no disallowance can be done as assessee had not received any exempt income during the concerned year. Learned Commissioner of Income-tax has accepted this submission of the assessee. He has placed reliance upon the decision of Hon'ble Delhi High Court in the case of M/s.Cheminvest Limited in ITA No.749/Mum/2014 vide order dated 02.09.2015. In the said decision of Cheminvest Limited, Hon'ble Delhi High Court has reversed the decision of the Special Bench of the ITAT and held that when no exempt income has been earned, no disallowance u/s 14A can be done. I find that no contrary decision of the jurisdictional High Court has been produced before me. In such circumstances, I do not find any infirmity in the order of learned CIT(A). Accordingly, I uphold the same.

5. In the result, the appeal filed by the Revenue stands dismissed.

Order pronounced on this 05th day of June, 2017.

Sd/-

(Shamim Yahya)

लेखा सदस्य सदस्य / ACCOUNTANT MEMBER

मुंबई Mumbai; दिनांक Dated :05th June, 2017.

Devdas*

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT, Mumbai.
4. आयकर आयुक्त / CIT(A)-53, Mumbai
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR,
ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

**उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai**