

**IN THE INCOME TAX APPELLATE TRIBUNAL  
'A' BENCH, BENGALURU**

**BEFORE SHRI VIJAY PAL RAO, JUDICIAL MEMBER  
and  
SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER**

ITA No.867/Bang/2016  
(Assessment year: 2009-10)

Joint Commissioner of Income-tax (OSD),  
Circle 5(1)(2),  
Bengaluru.

... Appellant

Vs.

M/s.Priyaraj Electronics Ltd.,  
18A/19, Doddanekkundi Industrial Area,  
Mahadevapura,  
Bengaluru-560008.  
*PAN:AABCP 3244 P*

... Respondent

Appellant by : Shri B.R.Ramesh, Joint CIT(DR)  
Respondent by : Shri S.Ganesh, Advocate.

Date of hearing : 24/08/2017  
Date of pronouncement : 27/10/2017

**O R D E R**

**Per INTURI RAMA RAO, AM :**

This is an appeal filed by the revenue directed against the order of the Commissioner of Income-tax (Appeals)-12, Bengaluru, dated 12/02/2016 for the assessment year 2009-10.

2. The revenue raised the following grounds of appeal:

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1. The order of the Commissioner of Income Tax(Appeals) - 12, Bangalore, is opposed to the law and not on the facts and circumstances of the case.
  2. On the facts and circumstances of the case, whether the CIT(A) has erred in restricting the amount of disallowance to the exempt income received, even though the provisions of Section 14A does not stipulate any restriction on the amount of disallowance.
  3. For these and other grounds that may be urged upon, the order of the CIT(A) may be reversed and that assessment order be restored.
  4. The appellant craves leave to add, alter, amend or delete any other grounds on or before hearing of the appeal.
2. Briefly facts of the case are as under: The respondent-assessee is a company duly incorporated under the provisions of the Companies Act, 1956. Return of income for the assessment year 2009-10 was filed on 24/09/2009. Subsequently this return of income was revised on 24/11/2010 declaring loss of Rs.17,72,377/-. After processing the said return of income under the provisions of section 143(1) of the Income-tax Act, 1961 [hereinafter referred to as 'the Act' for short] the case was selected for scrutiny and assessment was completed u/s 143(3) vide order dated 15/12/2001 at total income of Rs.75,75,611/-. While doing so, the Assessing Officer (AO) disallowed a sum of Rs.51,31,970/- on the ground that borrowed funds were not used for business purpose and this disallowance was agreed to by the assessee.
3. Being aggrieved by the assessment order, an appeal was preferred before the CIT(A) challenging addition u/s 14A on the ground that the AO should not resort to disallowance u/s 14A without giving a finding as to correctness or otherwise of the claim of the assessee that no expenditure was incurred to earn exempt income. It was further contended that in

any event, amount of disallowance should not exceed exempt income as in the current year, exempt income is only Rs.3,380/- and disallowance should be limited to only exempt income. The CIT(A), after considering the submissions of the respondent-assessee held as follows:

6. Regarding the quantum of disallowance, the assessee has, during appellant proceedings, submitted that the disallowance under section 14A should be limited to the quantum of exempt income. It relied on the decision of Delhi High Court in the case of Joint Investments Pvt Ltd v. CIT in ITA No.117/2015 (2015-TOIL-574-HC-DEL-IT) and the decision of ITAT Mumbai, in the case of Daga Global Chemical Pvt Ltd v. ACTI ITA no.5592/Mum/2012 for the proposition that the disallowance under section 14A cannot exceed the amount of income claimed exempt.

In Joint Investments Pvt Ltd v. CIT (supra), the Hon'ble Delhi High Court has held as under:

*"By no stretch of imagination can Section 14A or rule 8D be interpreted so as to mean that the entire tax exempt income is to be disallowed. The window for disallowance is indicated in Section 14A, and is only to the extent of disallowing expenditure "incurred by the assessee in relation to the tax exempt income." This proportion or portion of the tax exempt income surely cannot swallow the entire amount as has happened in this case."*

Respectfully following the above decision, it is held that the disallowance made under section 14A read with rule 8D should be restricted to Rs.3,380/- being the amount of dividend income.

4. Being aggrieved by the order of the CIT(A) restricting the disallowance u/s 14A to the extent of exempt income earned of Rs.3,380/- the revenue is in appeal before us. The learned Departmental Representative vehemently contended that the CIT(A) was not justified in restricting disallowance to the extent of exempt income shown.

5. We heard rival submissions and perused the material on record. Now law is settled that, disallowance u/s 14A cannot exceed the exempt income. Since the order of the CIT(A) is in consonance with settled

proposition of law, we do not find any reason to interfere with the order of the CIT(A).

6. In the result, the appeal filed by the revenue is dismissed.

*Order pronounced in the open court on 27<sup>th</sup> October, 2017*

Sd/-  
**(VIJAY PAL RAO)**  
**JUDICIAL MEMBER**

sd/-  
**(INTURI RAMA RAO)**  
**ACCOUNTANT MEMBER**

Place: Bengaluru  
Date : 27/10/2017  
*srinivasulu, sps*

**Copy to :**

- 1 Appellant
- 2 Respondent
- 3 CIT(A)
- 4 CIT
- 5 DR, ITAT, Bangalore.
- 6 Guard file

By order

Senior Private Secretary  
Income-tax Appellate Tribunal  
Bangalore