



ITA.No.5202/Mum/2016
Diatrends Jewellery Private Limited
Assessment Years-2012-13

आयकर अपीलीय अधिकरण "बी" न्यायपीठ मुंबई में।

IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH, MUMBAI

श्री डी.टी. गरासिया, न्यायिक सदस्य एवं
श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।

**BEFORE SHRI D.T. GARASIA, JM AND
SHRI MANOJ KUMAR AGGARWAL, AM**

आयकर अपील सं./I.T.A. No.5202/Mum/2016
(निर्धारण वर्ष / Assessment Year: 2012-13)

Diatrends Jewellery Private Limited Plot No.B/3, Road No.6 Off. MIDC Central Road, Andheri(E) Mumbai-400 093	बनाम/ Vs.	Deputy Commissioner Of Income Tax Central Circle 9(3)(1) Aaykar Bhavan M.K.Road Mumbai-400 020
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. AABCD-2163-P		
(पीलार्थी / Appellant)	:	(प्रत्यर्थी / Respondent)

Assessee by	:	Mahesh G Trivedi, Ld. AR
Revenue by	:	T.A.Khan, Ld. DR

सुनवाई की तारीख / Date of Hearing	:	10/08/2017
घोषणा की तारीख / Date of Pronouncement	:	01/11 /2017



आदेश / ORDER

Per Manoj Kumar Aggarwal (Accountant Member)

1. The captioned appeal by assessee for Assessment Year [AY] 2012-13 assails the order of the Ld. Commissioner of Income-Tax (Appeals)-16 [CIT(A)], Mumbai, *Appeal No.CIT(A)-16/IT-11/DCIT 9(3)(1)/2015-16* dated 15/06/2016. The assessment for impugned AY was framed by *Ld. Deputy Commissioner Of Income Tax Central Circle 9(3)(1) u/s 143(3) of the Income Tax Act, 1961* on 11/03/2015. The solitary issue involved in the appeal is disallowance u/s 14A.

2.1 Briefly stated the assessee being *resident corporate assessee* engaged in the business of *manufacturing of jewellery and dealing in diamonds, gold & others* was assessed for impugned AY u/s 143(3) on 11/03/2015 at Rs.2,25,69,340/- as against returned income of Rs.2,00,57,928/- *e-filed* by the assessee on 24/09/2012. The assessee has suffered disallowance u/s 14A for Rs.10,81,461/- and the same is the subject matter of this appeal.

2.2 During assessment proceedings, it was noted that the assessee earned exempt dividend income of Rs.1,57,500/- whereas it did not make any *suo-moto* disallowance u/s 14A against the same. The Ld. AO, applying *Rule 8D*, computed the same at Rs.10,81,461/- which comprised of *interest disallowance* as per *Rule 8D(2)(ii)* for Rs.7,84,161/- and expenses disallowance u/r *8D(2)(iii) @0.5%* of average investment, which came to Rs.2,97,300/-.



3. Aggrieved, the assessee contested the same with partial success before Ld. CIT(A) vide impugned order dated 15/06/2016 where interest disallowance was deleted upon noticing that the investments were made by the assessee out of own interest free funds held in the shape of *Share Capital & Reserves & Surplus*. The expense disallowance was restricted to Rs.1,57,500/-, being exempt income earned by the assessee, by placing reliance on the judgment of Hon'ble Delhi High Court rendered in the case of *Cheminvest Ltd. Vs. CIT [2015 94 CCH 2]*. Aggrieved, the assessee is in further appeal before us.

4. The Ld. Counsel for assessee pleaded for further relief on the ground that the assessee did not incur any expenses to earn the dividend income. Per *contra*, Ld. Departmental representative contended that the stand of Ld. CIT was quite fair and reasonable and therefore, no further relief could be granted to the assessee.

5. We have carefully heard the rival contentions and perused relevant material on record. We find that disallowance u/r 8D(2)(iii) was computed by Ld. AO by applying the prescribed formula. The disallowance, thus worked out, came to Rs.2,97,300/-. The Ld. CIT(A) restricted the same to exempt income earned by assessee i.e. Rs.1,57,500/-. We find the stand of Ld. CIT(A) quite fair and reasonable since the disallowance had to be worked out only as per the prescribed formula only. Therefore, no further relief could be granted to the assessee on the given facts.

6. Resultantly, the assessee's appeal stands dismissed.



Order pronounced in the open court on 01st November, 2017.

Sd/-
(D.T. Garasia)
न्यायिक सदस्य / **Judicial Member**

Sd/-
(Manoj Kumar Aggarwal)
लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 01.11 .2017
Sr.PS:- Thirumalesh

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

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

आदेशानुसार/ BY ORDER,

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