

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'D' NEW DELHI**

**BEFORE SH.G.D.AGRAWAL, HON'BLE PRESIDENT  
AND  
SH.K.N.CHARY, JUDICIAL MEMBER**

**ITA No. 1374/Del/2016  
(ASSESSMENT YEAR: 2012-13)**

DCIT, Circle-11(1), New Delhi.	<b>vs</b>	Hero Fincorp Ltd. 34, Community Centre, Basant Lok, Vasant Vihar, New Delhi-110057. PAN-AAACH0157J
<b>(Appellant)</b>		<b>(Respondent)</b>
<b>Appellant by</b>	Sh. Gaurav Jain, Adv. & Ms. Deepika Agrawal, CA	
<b>Respondent by</b>	Sh. Amit Jain, Sr.DR	
<b>Date of Hearing</b>	14.11.2017	
<b>Date of Pronouncement</b>	16.11.2017	

**ORDER**

**PER K.N.CHARY, JUDICIAL MEMBER**

Aggrieved by the order dated 01.12.2015 in Appeal No.208/15-16 passed by the Ld. Commissioner of Income Tax (Appeal) [in short "CIT(A)"]-16, New Delhi for the AY 2012-13, the Revenue filed this appeal on the following grounds:-

1. *"On the facts and circumstances of the case, whether Ld.CIT(A) was correct in deleting the addition made by the AO on account of disallowance u/s 14A.*
  2. *The appellant craves leave, to add, alter or amend any ground of appeal raised above at the time of the hearing."*
2. Relevant facts for the disposal of this appeal are that the assessee derives income from the business of leasing, financing and bill discounting. For the AY 2012-13, they have filed return of income on 28.09.2012 declaring a total income of Rs.22,04,49,080/- and during the scrutiny proceedings, the AO found that the assessee invested a sum of Rs.4,55,41,000/- to earn a dividend income of

Rs.91,350/- and the accounts of the assessee revealed that the assessee paid interest of Rs.24,06,37,000/-. In these circumstances, by invoking the provisions u/s 14A r.w. Rule 8D of the Income Tax Act, 1961 (in short "Act") the AO made an addition of Rs.51,07,410/- which, in appeal, the Ld.CIT(A) deleted by observing that the assessee had sufficient funds of its own, therefore, there was no need of utilizing any interest bearing funds. Next, Ld. CIT(A) considered the argument that since there was no fresh investment during the year and only sole the current investment holding Mutual Funds as such no administrative expenses were incurred. Ultimately, Ld.CIT(A) deleted the entire addition of Rs.51,07,410/-, holding that there was no direct expenditure nor any interest is attributable to the investment and at the same time, no administrative expenditure could be attributed inasmuch as no activity was there during the year. Hence, the assessee is before us in this appeal.

3. Ld.DR submitted that though the own funds of the assessee are exceeding the investment, it cannot be said that no expenditure was incurred by the assessee on account of the administrative functions inasmuch as making investment, maintaining or continuing with any investment in a particular share/mutual fund etc. and the time when to exit from one investment to another are all the activities requiring well coordinated and well informed management decisions, involving not only inputs from various sources but it also involves acumen of senior management functionaries, as such the decision to continue the investment or not to investment any further also require some management decisions as such Ld.CIT(A) is not justified in deleting the total amount.

4. Per contra, it is the argument of the Ld.AR that in the earlier years, the addition on account of Section 14A of the Act was deleted and following the same in this year also, Ld.CIT(A) deleted it. It is his argument that when no interest component is involved and there was no financial transactions in respect of the investment, no addition could be made. However, in view of the smallness of the amount of Rs.91,350/- earned as dividend in this year, he submits that without prejudice to his other legal contentions, such an amount may be disallowed. He prays that liberty may be granted for him to raise these contentions in respect of other years involving addition u/s 14A of the Act.

5. We have carefully considered the contentions on other side and perused the material papers on record. In view of the submissions of the Ld.AR that the disallowance may be confined to the amount of dividend earned in this matter, we are not proposing to enter into the merits of the case and while respectfully following the decision of the Jurisdictional High Court in *Joint Investment Pvt.Ltd. vs CIT [2015] 372 ITR 694* where it was held that disallowance of expenditure u/s 14A of the Act cannot exceed the amount of tax exempt income, we limit the disallowance to Rs.91,350/- that could be made u/s 14A of the Act. Liberty is granted to the assessee to raise all the available legal contentions in case of other assessment years.

6. In the result, the appeal of the Revenue is allowed in part.

**The order is pronounced in the open court on 16<sup>th</sup> of November, 2017.**

**Sd/-**  
**(G.D.AGRAWAL)**  
**PRESIDENT**  
Date:-16<sup>th</sup> November, 2017  
\*Amit Kumar\*

**Sd/-**  
**(K.N.CHARY)**  
**JUDICIAL MEMBER**

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR  
ITAT NEW DELHI