

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

**BEFORE SHRI G.D. AGRAWAL, HON'BLE PRESIDENT
&
SHRI K. NARSIMHA CHARY, JUDICIAL MEMBER**

**ITA No.-558/Del/2016
(Assessment Year: 2012-13)**

DCIT Circle 19(1), Room No. 221, 2 nd Floor, C.R. Bldg., I.P. Estate, New Delhi.	vs	Oscar Investment Ltd. 54, Janpath, New Delhi. AAACO1722C
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Assessee by	None
Revenue by	Sh. Amit Jain, Sr. DR

Date of Hearing	13.11.2017
Date of Pronouncement	14.11.2017

ORDER

PER SHRI K.N. CHARY, J.M.

Aggrieved by the order dated 23.11.2015 in appeal no. 771/CIT(A)-7/Del/14-15 relevant to the assessment year 2012-13 passed by the Ld. Commissioner of Income Tax (Appeals)-7, New Delhi (hereinafter for short referred to as the "Ld. CIT(A)"), Revenue preferred this appeal on the following grounds:

1. *"On the facts and in the circumstances of the case, the Ld.CIT (A) has erred in law in deleting the disallowance u/s 14A r.w.r. 8D of Rs. 5,20,11,322/- in the light of decision of Hon'ble Delhi High Court*

in the case of Cheminvest Ltd. vs. CIT without appreciating the facts that the decision is not applicable to the facts of this case.

2. *On the facts and in the circumstances of the case, the Ld. CIT (A) has erred in law and on the facts in deleting the disallowance of Rs. 5,20,11,322/- u/s 14A r.w.r. 8D by ignoring the provisions of sub-rule 8D of the Income Tax Rules.*
3. *The appellant craves to be allowed to add any fresh grounds of appeal and/or delete or amend any of the grounds of appeal.”*

2. Briefly stated facts are that the assessee company derives its income by making investment in shares and securities. For the AY 2012-13 they have filed their return of income on 25.09.2012 declaring a total income of Rs. 257,92,65,580/- and during scrutiny u/s 143(3) of the Income Tax Act, 1961 (for short called as the 'Act') AO found that the assessee made huge investments during the year but has not received any dividend income out of the same. However, by following the decision of the ITAT Delhi in the case of Cheminvest Ltd. vs. ITO (2009) 317 ITR (AT) 0086 Rule 8D of the Rules AO quantified the disallowance on that score at Rs. 5,20,11,322/-. In appeal Ld. CIT (A) placed reliance on the decisions reported in CIT vs. Holcim India (P) Ltd. (2014) 90 CCH 0081 (Del.) (HC) and reached a conclusion that when no dividend was received by the assessee during the year no disallowance by

invoking provisions u/s 14A read with Rule 8D of the Rules is permissible. Inasmuch as the Ld. CIT (A) placed reliance on the binding precedent set by the Hon'ble Jurisdictional High Court in Holcim India, his findings cannot be said as illegal or irregular. We, therefore, uphold the same and dismissed the grounds of appeal.

3. In the result, the appeal of the Revenue is dismissed.

Order pronounced in the open court on 14.11.2017

Sd/-
(G.D. AGRAWAL)
PRESIDENT

Sd/-
(K. NARSIMHA CHARY)
JUDICIAL MEMBER

Dated: 14.11.2017

*Kavita Arora

Copy forwarded to:

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

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ASSISTANT REGISTRAR
ITAT NEW DELHI

