

IN THE INCOME TAX APPELLATE TRIBUNAL  
“L” Bench, Mumbai  
Before S/Shri B.R. Baskaran (AM) & Sandeep Gosain (JM)

I.T.A. No. 7255/Mum/2016 (Assessment Year 2012-13)

DCIT 14(3)(1) 455, Aayakar Bhavan M.K. Road Mumbai-400 020.	Vs.	Reliance Broadcast Network Limited 401, 4 <sup>th</sup> Floor Infinity Mall Link Road, Oshiwara Andheri West Mumbai-400 053. PAN : AADCR1885L
(Appellant)		(Respondent)

Assessee by	Shri Jitendra Sanghvi
Department by	Shri M.V. Rajguru
Date of Hearing	8.11.2017
Date of Pronouncement	22.11.2017

ORDER

Per B.R. Baskaran (AM) :-

The appeal filed by the Revenue is directed against the order dated 19.9.2016 passed by the learned CIT(A)-52, Mumbai and it relates to A.Y. 2012-13. The Revenue is aggrieved by the decision of the learned CIT(A) in deleting the disallowance of 151.19 lakhs made by the Assessing Officer u/s. 14A of the Act.

2. We heard the parties and perused the record. The assessee is engaged in the business of FM radio broadcasting event management, out of home advertising interactive services. The Assessing Officer noticed that the assessee has made investment in shares of group concerns to the tune of ₹ 5351.26 lakhs. The assessee did not make any disallowance u/s. 14A of the Act. The Assessing Officer noticed that the assessee was having interest free funds in the form of securities premium account to the tune of ₹ 37471.28 lakhs. However, he took the view that the same cannot be used for making investment in shares and mutual funds as per provisions of the Companies

Act. Since the assessee had accumulated losses, the Assessing Officer took the view that the assessee must have utilised borrowed funds for making investments. Accordingly, he computed disallowance u/s. 14A of the Act to the tune of ₹ 151.19 lakhs by applying the provisions of Rule 8D of IT Rules. The learned CIT(A) deleted the same and hence the assessee has filed this appeal before us.

3. Learned AR submitted that the assessee has not earned any dividend income and hence no disallowance is called for as per the decision of the Special Bench of the Delhi ITAT in the case of Vireet Investment (P) Ltd. (82 taxamn.com 415) and also decision rendered by Hon'ble Delhi High Court in the case of Cheminvest Ltd. CIT (378 ITR 33). He further submitted that investments have been mainly made in the subsidiary companies and hence, on that count also, no disallowance u/s. 14A is called for. In this regard, he placed reliance on the decision rendered by the Coordinate Bench in the case of Garware Wall Ropes Ltd. Vs. Addl. CIT (46 Taxamn.com 18). The Learned AR submitted that investment portfolio of the year under consideration consists of investment in the subsidiary companies only. He submitted that the assessee held investments in mutual funds growth plan in the immediately preceding year and the same has been redeemed during the year under consideration. Accordingly, he submitted that the order passed by the learned CIT(A) does not call for any interference.

4. On the contrary, learned Departmental Representative strongly supported the order passed by the Assessing Officer.

5. Having heard the rival submissions, we are of the view that the decision taken by the learned CIT(A) in reversing the disallowance made by the Assessing Officer u/s. 14A of the Act does not call for any interference for the reason that the assessee has made investments only in the subsidiary companies, which are strategic in nature and in growth plan of mutual funds, which do not yield dividend. In the case of Garware Wall Ropes Ltd. (supra), it

has been held that strategic investments have to be excluded for the purpose of computing disallowance u/s. 14A of the Act in which case, there is no requirement to make any disallowance u/s. 14A of the Act. Further it is an admitted fact that the assessee did not receive any dividend income during the year under consideration and in the case of Cheminvest Ltd. (supra) it has been held that disallowance u/s. 14A is not called for when there is no exempt income. In view of the above, we uphold the decision taken by the learned CIT(A) on this issue.

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

Order has been pronounced in the Court on 22.11.2017.

Sd/-  
(SANDEEP GOSAIN)  
JUDICIAL MEMBER

Sd/-  
(B.R.BASKARAN)  
ACCOUNTANT MEMBER

Mumbai; Dated : 22/11/2017

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT
5. DR, ITAT, Mumbai
6. Guard File.

//True Copy//

PS

BY ORDER,

(Dy./Asstt. Registrar)  
ITAT, Mumbai