

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "SMC", MUMBAI**

BEFORE SHRI G.S. PANNU, ACCOUNTANT MEMBER

ITA NO. 6363/MUM/2016 : A.Y : 2011-12

Direct Information Pvt. Ltd.,
Directiplex, Acme I-Tech Park,
Next to Andheri Subway, Old
Nagardas Road, Andheri (E),
Mumbai 400 069 (Appellant)
PAN : AABCD0497L

Vs. ITO – 9(1)(3), Mumbai
(Respondent)

Appellant by : Shri Maneck Andhyarujina

Respondent by : Ms. N. Hemalatha

Date of Hearing : 24/11/2017

Date of Pronouncement : 30/11/2017

ORDER

PER G.S. PANNU, AM :

The captioned appeal by the assessee is directed against the order of CIT(A)-20, Mumbai dated 26.08.2016 pertaining to the Assessment Year 2011-12, which in turn has arisen from the order passed by the Assessing Officer, Mumbai dated 30.12.2013 u/s 143(3) of the Income Tax Act, 1961 (in short 'the Act').

2. In this appeal, although the assessee has raised multiple Grounds of appeal, but the solitary dispute is with regard to the disallowance of Rs.34,883/- made by the Assessing Officer u/s 14A of the Act.

3. Briefly put, the relevant facts are that the Assessing Officer noted that the assessee had earned dividend income of Rs.4,74,630/-, which was claimed as exempt u/s 10(34) of the Act and at the same time, no disallowance was made out of expenses relatable to the said income in terms of Sec. 14A of the Act. The stand of the assessee was that no expenses have been incurred on earning of the exempt income and, in any case, the cost incurred to acquire the investments, i.e. brokerage, etc. have been added to the cost of the investments. The Assessing Officer applied Rule 8D(2)(iii) of the Income Tax Rules, 1962 (in short 'the Rules') to compute the disallowance u/s 14A of the Act at Rs.34,883/-. The CIT(A) has also affirmed the disallowance, against which the assessee is in further appeal before the Tribunal.

4. Before me, the claim of the assessee is that it has been consistently explaining that no particular expenditure has been incurred in relation to the exempt income, and that the Assessing Officer has mechanically applied Rule 8D of the Rules to compute the disallowance u/s 14A of the Act.

5. On the other hand, the Id. DR supported the order of the Assessing Officer by pointing out that the disallowance was necessitated on account of the fact that the assessee has earned exempt income.

6. I have carefully considered the rival submissions. Quite clearly, resort to Rule 8D of the Rules can be made in order to work out the disallowance u/s 14A of the Act only in case the Assessing Officer is satisfied that the claim of the assessee is incorrect having regard to the accounts of the assessee.

The aforesaid proposition is quite well settled and is, in fact, now confirmed by the Hon'ble Supreme Court in the case of *Godrej & Boyce Manufacturing Company Limited vs. Dy. Commissioner of Income-tax & Anr. in Civil Appeal No. 7020 of 2011*. In the instant, a perusal of the discussion in the assessment order reveals that the disallowance u/s 14A of the Act has been computed by applying Rule 8D of the Rules without recording any satisfaction with regard to the assessee's claim and, in my view, the assessee is correct in asserting that Rule 8D of the Rules has been mechanically applied. On this aspect itself, I find no reason to uphold the disallowance of Rs.34,883/- u/s 14A of the Act, which is hereby set-aside.

7. In the result, appeal of the assessee is allowed, as above.

Order pronounced in the open court on 30th November, 2017.

Sd/-
(G.S. PANNU)
ACCOUNTANT MEMBER

Mumbai, Date : 30th November, 2017

SSL

Copy to :

- 1) The Appellant
- 2) The Respondent
- 3) The CIT(A) concerned
- 4) The CIT concerned
- 5) The D.R, "SMC" Bench, Mumbai
- 6) Guard file

By Order

Dy./Asstt. Registrar
I.T.A.T, Mumbai