IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES : D : NEW DELHI

BEFORE SHRI R.S. SYAL, VICE PRESIDENT
AND
SHRI C.M. GARG, JUDICIAL MEMBER

ITA No.6041/Del/2015
Assessment Year : 2012-13

Albasta Wholesale Services Ltd., M-62 & 63, First Floor, Connaught Place, New Delhi.	Vs.	ITO, Ward 2(2), New Delhi.

PAN: AAHCA0198F

Assessee By	:	Shri Abhishek Gupta, CA
Deptt. By	:	Shri Amit Jain, Sr. DR

Date of Hearing	:	11.12.2017
Date of Pronouncement	:	11.12.2017

ORDER

PER R.S. SYAL, VP:

This appeal by the assessee arises out of the order passed by the CIT(A) on 04.09.2015 in relation to the assessment year 2012-13.

2. The only issue raised in this appeal is against the confirmation of disallowance u/s 14A of the Income-tax Act, 1961 (hereinafter called `the Act') amounting to Rs.1,25,810/-

3. Briefly stated, the facts of the case are that the assessee filed return offering disallowance of Rs.552/- u/s 14A of the Act read with rule 8D of the Income-tax Rules, 1962. The assessee was required to give calculation of disallowance so made and, further, as to why the disallowance be not worked out as per Rule 8D. The assessee furnished reply with which the Assessing Officer was not convinced. He took recourse to the provisions of Rule 8D and computed disallowance u/s 14A at Rs.28,59,190/-. After reducing the amount voluntarily disallowed by the assessee at Rs.552/-, the Assessing Officer made the addition for a sum of Rs.28,58,638/-. The ld. CIT(A) reduced the disallowance to Rs.1,25,810/-, against which the assessee has come up in appeal before the tribunal.

4. We have heard the parties and perused the relevant material on record. It can be seen from the assessment order that the assessee worked out disallowance u/s 14A of the Act at Rs.552/-. On being called upon to explain the basis for such disallowance, the assessee furnished reply dated 05.03.2015, which has been referred to in the assessment order. The Assessing Officer dealt with the same by simply recording in his order that: "The same has been perused carefully and is placed on record. However, suffice it to state here that the reply filed is without merits and is rejected accordingly." Thereafter, he discussed the provisions of section 14A and then proceeded to compute the disallowance as per Rule 8D by observing that: "In view of the above facts and having regard to the accounts of the assessee, I am not satisfied with the claim of the assessee that the provisions of section 14A are not applicable." It is discernible from the assessment order that the Assessing Officer did not record any satisfaction as to why the computation of disallowance by the assessee was not right.

5. The Hon'ble jurisdictional High Court in series of decisions led by *Maxopp Investments Ltd. vs. CIT (2012) 347 ITR 272 (Del),* has held that the recording of satisfaction by the Assessing Officer, having regard to the accounts of the assessee, that the assessee's claim is not correct, is *sine qua non* for computing disallowance u/s 14A. The Hon'ble Delhi High Court in *CIT vs. Hero Management Services Ltd. (2014) 360 ITR 68 (Del),* has held that no disallowance can be made u/s 14A of the Act if no satisfaction has been recorded by the Assessing Officer. In view of the foregoing discussion, it is clear that unless the Assessing Officer records proper satisfaction in terms of section 14A(2) of the Act, he cannot reject the assessee's claim in this regard.

6. Adverting to the facts of the instant case, we find that the Assessing Officer failed to record any satisfaction in tune with the stipulation contained in section 14A, which is crucial for disallowance. As such, we hold that no disallowance u/s 14A

can be sustained. We, therefore, order to delete the addition made by the Assessing Officer in entirety.

7. In the result, the appeal is allowed.

Order Pronounced in the open Court on 11.12.2017.

Sd/-	Sd/-
[C.M. GARG] JUDICIAL MEMBER	[R.S. SYAL] VICE PRESIDENT

Dated, 11th December, 2017.

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Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT (A)
5. DR, ITAT

AR, ITAT, NEW DELHI.