

**IN THE INCOME TAX APPELLATE TRIBUNAL  
KOLKATA 'D' BENCH, KOLKATA**

**[Before Sri J. Sudhakar Reddy, Accountant Member & Sri Aby T. Varkey, Judicial Member]**

**I.T.A. No. 1796/Kol/2016  
Assessment Year: 2012-13**

**DCIT, Circle-1(2), Kolkata.....Appellant**  
**Aaykar Bhawan**  
**P-7, Chowringhee Square**  
**R. No. 14, 7<sup>th</sup> Floor**  
**Kolkata - 700 069**

**M/s. Jwala Steel Limited..... Respondent**  
**8/C, Maharshi Devendra Road**  
**Kolkata - 700 007**  
**[PAN : AAACJ 9638 E]**

**Appearances by:**

*None , appeared on behalf of the assessee.*

*Shri Arindam Bhattacharya, Addl. CIT, Sr. DR, appearing on behalf of the Revenue.*

Date of concluding the hearing : January 25<sup>th</sup>, 2018

Date of pronouncing the order : February 8<sup>TH</sup> , 2018

**O R D E R**

**Per J. Sudhakar Reddy :-**

This appeal filed by the revenue is directed against the order of the Id. Commissioner of Income Tax (Appeals)-1, (hereinafter the 'Id. CIT (A)'), passed u/s 250 of the Income Tax Act, 1961 (the 'Act'), dt. 08/06/2016, for the Assessment Year 2012-13, on the following grounds:-

“1. Whether on the facts and in the circumstances of the case and in law, the decision of Ld. CIT(A) erred in allowing preliminary expenses in full.

2. Whether on the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in deleting disallowance u/s. 14A rw Rule 8D ground that the assessee did not earn exempt income, on investments in contradictions with CBDT Circular No. 5/2015.

3. The Revenue shall always crave for adding or altering any ground on or before the date of hearing”

2. After hearing rival contentions, we hold as follows:-

3. Ground No. 1, is on the deletion of an addition of Rs. 1,12,000/-, being preliminary expenses.

3.1. The Id. CIT(A) deleted the same by directing the Assessing Officer to allow deduction u/s 35D of the Act for the reason that similar deduction was granted during the earlier four years under the same Section. We find no infirmity in this finding of the Id. CIT(A). Hence we dismiss this ground of the revenue.

4. Ground No. 2, is on the issue as to whether the disallowance u/s 14A rw Rule 8D, can be made in the case where the assessee has not earned any exempt income.

4.1. We find that this issue is covered against the revenue and in favour of the assessee by the judgement of the Hon'ble Delhi High Court in the case of *Cheminvest Limited vs Commissioner Of Income Tax, ITA No. 749/2014, dt. 02.09.2015.*

4.1.1. Respectfully following the propositions of law laid down in the case of *Cheminvest Limited vs Commissioner Of Income Tax (Supra)*, we dismiss this ground of the revenue.

5. In the result, this appeal of the revenue is dismissed.

***Kolkata, the 8<sup>th</sup> day of February, 2018.***

***Sd/-***  
**[Aby T. Varkey]**  
Judicial Member

***Sd/-***  
**[J. Sudhakar Reddy]**  
Accountant Member

Dated :08.02.2018  
{SC SPS}

*Copy of the order forwarded to:*

**1. DCIT, Circle-1(2), Kolkata  
Aaykar Bhawan  
P-7, Chowringhee Square  
R. No. 14, 7<sup>th</sup> Floor  
Kolkata – 700 069**

**2. M/s. Jwala Steel Limited  
8/C, Maharshi Devendra Road  
Kolkata – 700 007**

3. CIT(A)-

4. CIT- ,

5. CIT(DR), Kolkata Benches, Kolkata.

True copy

By order

Senior Private Secretary  
Head of Office/ D.D.O. ITAT, Kolkata Benches