

**IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad ' B ' Bench, Hyderabad**

**Before Smt. P. Madhavi Devi, Judicial Member
AND
Shri D.S.Sunder Singh, Accountant Member**

ITA No.1455/Hyd/2016
(Assessment Year: 2012-13)

M/s. Seven Hills Coop. Urban Bank Ltd Hyderabad PAN: AAAAS 4904 Q (Appellant)	Vs	Asstt. Commissioner of Income Tax, Circle 7(1) Hyderabad (Respondent)
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For Assessee :	Shri A.V. Raghuram
For Revenue :	Shri K.J. Rao, DR

Date of Hearing:	21.03.2018
Date of Pronouncement:	23.03.2018

ORDER

Per Smt. P. Madhavi Devi, J.M.

This is assessee's appeal for the A.Y 2012-13 against the order of the CIT (A)-3, Hyderabad, dated 24.02.2016. The only issue involved in this appeal is the disallowance made by the AO u/s 14A r.w. Rule 8D(2)(iii) of the Act.

2. Brief facts of the case are that the assessee, an AOP, engaged in the business of banking, filed its return of income for the A.Y 2012-13 on 21.09.2012 declaring total income of Rs.87,67,240. During the assessment proceedings u/s 143(3) of the Act, the AO observed that the assessee has made investments during the year to the tune of Rs.75,00,000 in mutual funds and earned dividend income; and invested Rs.5,55,00,000 in

government securities and has incurred huge interest expenditure, but the assessee has not allocated any expenditure against these investment in terms of section 14A. The assessee was asked to show cause vide order sheet noting dated 12.03.2015 as to why the disallowance u/s 14A should not be made. The assessee submitted that it had sufficient funds of its own for making the investments and that no expenditure has been incurred towards the investments. The AO however, was not convinced with the assessee's contentions and observed that the assessee had offered the dividend income to tax intentionally to avoid application of section 14A r.w.Rule 8D. Observing that the assessee has failed to establish a direct nexus between own funds at the disposal of the assessee and the investments, the AO made the disallowance u/s 14A r.w Rule 8D(2)(iii). The disallowance thus worked out to Rs.26,51,451.

3. Aggrieved, the assessee preferred an appeal before the CIT (A), who confirmed the order of the AO and the assessee is in second appeal before us.

4. The learned Counsel for the assessee submitted that the assessee has earned the dividend income of Rs.8,679/- only from Birla Sun Life and Rs.8,758/- only from Reliance Mutual Funds, but the disallowance u/s 14A is much higher at Rs.26,51,451. He submitted that the disallowance u/s 14A cannot exceed the dividend income earned by the assessee.

5. The learned DR was also heard, who supported the orders of the authorities below.

6. Having regard to the rival contentions and the material on record, we find that the Hon'ble Delhi High Court in the case of Joint Investment (P) Ltd vs. CIT in ITA No.117 of 2015 dated 25.2.2015, has held that the disallowance u/s 14A of the Act cannot exceed the tax exempted income. It was held that section 14A r.w. Rule 8D of the IT Rules cannot be interpreted so as to mean that the entire tax exempted income is to be disallowed and that the disallowance is only to be to the extent of expenditure incurred by the assessee in relation to the tax exempt income. The AO is therefore, directed to restrict the disallowance to the exempt income earned by the assessee.

7. In the result, assessee's appeal is allowed.

Order pronounced in the Open Court on 23rd March, 2018.

Sd/-
(D.S.Sunder Singh)
Accountant Member

Sd/-
(P. Madhavi Devi)
Judicial Member

Hyderabad, dated March 2018.

Vinodan/sps

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- 3 CIT (A)-3 Hyderabad
- 4 Pr. CIT – 3 Hyderabad
- 5 The DR, ITAT Hyderabad
- 6 Guard File

By Order