

**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 Nos. 1527 & 1528/Hyd/2017
(Assessment Years: 2013-14 & 2014-15)

DCIT, Circle 16 (2) Hyderabad (Appellant)	Vs	M/s. Medplus Health Services Private Limited Hyderabad PAN: AAECM 9412H (Respondent)
For Revenue:		Smt. N. Swapna, DR
For Assessee:		Shri M.D.N.V. Lakshmi Pavan
Date of Hearing:		23.03.2018
Date of Pronouncement:		23.03.2018

ORDER

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

Both are Revenue's appeals for the A.Ys 2013-14 & 2014-15 respectively against the order of the CIT (A)-4, Hyderabad, both dated 19.06.2017.

2. Brief facts of the case are that the assessee company, filed its return of income on 26.09.2013 admitting Nil taxable income, after set-off of brought forward business losses. During the assessment proceedings u/s 143(3) of the Act, the AO observed from the balance sheet of the company, that the assessee has made investments in shares of various companies amounting to Rs.139,47,51,280 as on 31.03.2013. Observing that

these investments are likely to yield dividend income, which is exempt from taxation, he proposed to make the disallowance u/s 14A of the Act r.w. Rule 8D of IT Rules, as no expenditure was claimed and disallowed by the assessee in the P&L A/c. The assessee in response to the show cause notice issued by the AO, filed a reply stating that the company is not having any exempt income for the A.Ys 2013-14 & 2014-15 and therefore, no disallowance u/s 14A is called for. The AO however, was of the opinion that irrespective of whether the assessee has earned exempt income, the provisions of section 14A are applicable. He followed the CBDT Circular No.5/2014 for coming to this conclusion and accordingly made the disallowance of Rs.1,20,25,633 for the A.Y 2013-14 and Rs.2,59,93,197 for the A.Y 2014-15.

3. Aggrieved, the assessee preferred appeals before the CIT (A), who allowed the same by following the ITAT orders in the case of Prathista Industries Ltd vs. DCIT in ITA No.1302/Hyd/2015 for the A.Y 2011-12 wherein it has followed the decision of the Hon'ble Delhi High Court in the case of Cheminvest Ltd, reported in (2015) 378 ITR 33 (Del.) to hold that section 14A will not apply where no exempt income is received or is receivable during the relevant A.Y. Observing that the assessee has no dividend income during the relevant A.Y, the CIT (A) deleted the disallowance against which the Revenue is in appeal before us.

4. The learned DR supported the orders of the authorities below while the learned Counsel for the assessee has filed before

us a copy of the order of the Tribunal in ITA No.1429/Hyd/2017 in the assessee's own case for the A.Y 2012-13 wherein the Tribunal has deleted the disallowance on the ground that the assessee has not earned any dividend income during the relevant A.Y. A copy of the said order is filed before us.

5. Having regard to the rival contentions and the material on record, we find that this issue is covered in favour of the assessee by the decision of the Hon'ble Delhi High Court in the case of Cheminvest Ltd (Supra) and also the Hon'ble Madras High Court in the case of M/s. Redington Co. in T.C.A.No.520 of 2016 dated 8.11.2016. Respectfully following the same, the Revenue's appeals are dismissed.

6. In the result, Revenue's appeals are dismissed.

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 23rd March 2018.

Vinodan/sps

Copy to:

- 1 DCIT Circle 16(2) 2nd Floor, B Block IT Towers, AC Guards, Masab Tank, Hyderabad
- 2 M/s. Medplus Health Services P Ltd 5-9-13, F.No.707, 7th Floor, Taramandal Complex, Saifabad, Hyderabad
- 3 CIT (A)-4 Hyderabad
- 4 Pr. CIT – 4 Hyderabad
- 5 The DR, ITAT Hyderabad
- 6 Guard File

By Order