

**IN THE INCOME TAX APPELLATE TRIBUNAL
DIVISION BENCH 'A', CHANDIGARH**

BEFORE SHRI SANJAY GARG, JUDICIAL MEMBER
AND DR. B.R.R. KUMAR, ACCOUNTANT MEMBER

ITA Nos. 1522/Chd/2017
(Assessment Year : 2014-15)

The DCIT
Circle-4,
Ludhiana

Vs.

M/s Aarti Steels Ltd.
G.T. Road, Miller Ganj
Ludhiana

PAN: AABCA4455D

(Appellant)

(Respondent)

Assessee by : Shri. Subhash Aggarwal
Department by : Smt. Chandrakanta

Date of hearing : 26.02.2018
Date of Pronouncement : 23/04/2018

ORDER

PER Dr.B.R.R.KUMAR, A.M. :

The present appeal has been filed by the Revenue against the order of the Ld. CIT(A)-2, Ludhiana dt. 09/08/2017.

2. The Revenue has raised only one ground in this appeal which reads as under:

1. *Whether upon facts and circumstances of the case, the Ld. CIT(A) was justified in deleting the disallowance under section 14A of the Income Tax Act, 1961, r.w. Rule 8D(ii).*

3. Brief facts of the case are that the assessee company is in the business of cotton and polyester yarn manufacturing. During the year the assessee has earned dividend income of Rs. 19,071/- from the investment in shares and mutual funds. The Assessing Officer made addition of Rs. 20,99,549/- to the income of the assessee under section 14A r.w.r. 8D of Income Tax Rule,1962 as the assessee has earned exempt income under section 10 of Income Tax Act,1961.

4. Ld. CIT(A) has restricted the addition to Rs. 1675/- based on the decision of ITAT, Chandigarh in the case of Shiv Prasad Aggarwal for the AY 2011-12 wherein disallowance has been worked @0.5% of average investment of dividend yielding investments.
5. Before us Ld. DR has argued that the provisions of Section 14A Rule 8D have a role of automatic application and the provisions are mandatory irrespective of the income earned or not out of the investments. Once the investments are made the assessee must have incurred expenses for such an activity.
6. The Ld. AR argued that in any case the disallowance cannot exceed the tax free income earned.
7. We have heard the Ld. Representatives of both the parties and perused the material available on record. The matter has been dealt in the assessee's own case for the AY 2009-10 in ITA No. 268/CHD/2015. For the sake of brevity the relevant portion of the order is as under :

Delhi High Court in the case of CIT Vs. Holcim India P. Ltd., ITA No.486/299 of 2014, dated 5.9.2014 and that of Gujarat High Court in the case of CIT Vs. Corrttech Energy P.Ltd. (2015) 571 ITR 97 (Guj), whereby it has been held that if the assessee does not earn any tax free income, disallowance under section 14A of the Act cannot be made. The proposition as regards to no tax free income, no disallowance under section 14A of the Act also been laid down by the Jurisdictional Punjab & Haryana High Court in the case of CIT Vs. Lakhani Marketing Ind. (2014) 111 DTR 149 (P&H). We do not find ourselves in agreement with the proposition that the Rule 8D of the Rules being mandatory, disallowance as per Rule 8D has be made even in cases where no tax free income has ,ed or where tax free income earned is lesser than the nt computed as per Rule 8D of the Rules. In our w, the proposition laid down by various High Courts as mentioned hereinabove is applicable in the present case with full force. In view of this, we direct the Assessing Officer to limit the disallowance made under section 14A of the Act read with Rule 8D of the Rules to the amount of tax free income earned by the assessee.

In view of the above, we direct the Assessing Officer to limit the disallowance to the amount of tax free income earned.

8. In the result appeal of the Revenue is dismissed.

Order pronounced in the open Court.

Sd/-
(SANJAY GARG)
JUDICIAL MEMBER
Dated : 23/04/2018

Sd/-
(DR. B.R.R. KUMAR)
ACCOUNTANT MEMBER

AG

Copy to: 1.The Appellant, 2. The Respondent, 3. The CIT(A), 4. The CIT, 5. The DR