



IN THE INCOME TAX APPELLATE TRIBUNAL "E", BENCH MUMBAI

BEFORE SHRI R.C.SHARMA, AM

&

SHRI AMARJIT SINGH, JM

ITA No.2968/Mum/2012

(Assessment Year :2008-09)

M/s. Essvee Investment Advisors Pvt. Ltd., 102, Free Press House Free Press Journal Road Nariman Point Mumbai – 400 021	Vs.	The Deputy Commissioner of IT – Circle 3(1) M.K.Road Mumbai
PAN/GIR No.AAACE0814D		
Appellant)	..	Respondent)

Assessee by	Shri Pravin Kumar Bafna
Revenue by	Shri V. Justin
Date of Hearing	18/05/2018
Date of Pronouncement	29/05/2018

आदेश / O R D E R

PER R.C.SHARMA (A.M):

This is an appeal filed by the assessee against the order of CIT(A)-6, Mumbai dated 22/03/2018 for A.Y.2008-09 in the matter of order passed u/s.143(3) of the IT Act.

2. Only grievance of assessee relates to disallowance made u/s.14A r.w.Rule 8D amounting to Rs.67,38,678/-.
3. Rival contentions have been heard and record perused.
4. Facts in brief are that assessee is dealing in securities and financial activities. During the year under consideration, assessee got dividend

income of Rs.23,91,501/-. However, AO made disallowance of Rs.67,38,678/- under Rules 8D.

5. It was contention of learned AR that the shares held by assessee as stock in trade is to be excluded. As an alternate, it was argued that disallowance u/s.14A should be restricted to the amount of exempt income received during the year.

6. We have considered rival contentions and do not find any merit in the contention of learned AR with regard to excluding the shares held as stock in trade while computing average investment on which disallowance is warranted in view of the recent decision of Hon'ble Supreme Court in case of Maxoop Investment, dated 12/02/2018,. However, with regard to assessee's contention to restrict the disallowance to the extent of dividend income, we are inclined to agree, in view of the decision in the case of Delhi High Court in case of Joint Investments Pvt. Ltd., dated 25/02/2015. Respectfully following the proposition of law laid down by Hon'ble Delhi High Court, we direct the AO to restrict the disallowance u/s.14A to the extent of exempt income received during the year under consideration. We direct accordingly.

7. In the result, appeal of assessee is allowed in part.

Order pronounced in the open court on this 29/05/2018

Sd/-
(AMARJIT SINGH)
JUDICIAL MEMBER

Sd/-
(R.C.SHARMA)
ACCOUNTANT MEMBER

Mumbai; Dated 29/05/2018
Karuna Sr.PS

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. The CIT(A), Mumbai.
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

सत्यापित प्रति //True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai