

**IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "F", MUMBAI**

**BEFORE SHRI C.N. PRASAD, HON'BLE JUDICIAL MEMBER AND  
SHRI N.K. PRADHAN, HON'BLE ACCOUNTANT MEMBER**

**ITA NO.4120/MUM/2016 (A.Y: 2012-13)**

M/s. Kabra Extrusion Technik Ltd  
31, Shah Industrial Estate,  
Veera Desai Road, Andheri (W)  
Mumbai – 400 053

v. Dy. Commissioner of Income  
Tax (OSD) – 8(2)  
Mumbai

**PAN NO: AAACK 4289 L**

**(Appellant)**

**(Respondent)**

<b>Assessee by</b>	<b>:</b>	<b>Shri Nitesh Joshi</b>
<b>Department by</b>	<b>:</b>	<b>Shri Suman Kumar</b>
<b>Date of Hearing</b>	<b>:</b>	<b>11.04.2018</b>
<b>Date of Pronouncement</b>	<b>:</b>	<b>22.06.2018</b>

**ORDER**

**PER C.N. PRASAD (JM)**

1. This appeal is filed by the assessee against the order of the Learned Commissioner of Income Tax (Appeals) – 17 Mumbai dated 22.03.2016 for the Assessment Year 2012-13.

2. Assessee has raised following grounds in its appeal: -

*"1. The CIT(A) ought to have held that the Appellant had disclaimed deduction by way of depreciation under section 32(1) of the Act in the earlier years and, therefore, the written down value on which depreciation was to be allowed for the year under consideration should have been higher to that extent.*

2. *The CIT(A) ought to have held that the appellant had already disallowed Rs. 47,042/- as being allocable under section 14A and no further expenditure by way of administrative cost had been incurred in relation to earning of exempt income and, hence, no such additional expenditure could not be the subject matter of disallowance under section 14A of the Act.*

3. *The Appellant craves leave to add, to amend or to alter any of the above grounds of appeal."*

3. At the outset, Learned Counsel for the assessee submitted that in so far as ground No.1 is concerned i.e., claim for depreciation, the Tribunal decided the issue against the assessee. Order of the Tribunal in ITA.No. 4078/Mum/2012 dated 15.12.2017 for the Assessment Year 2008-09 is placed at Page No. 78 of the Paper Book.

4. We have perused the order of the Tribunal and find that Tribunal dismissed the grounds of appeal of the assessee on the claim of depreciation on fixed assets, as the issue has been decided against the assessee by the Hon'ble Bombay High Court. Assessee filed an appeal before the Hon'ble Supreme Court and the Hon'ble Supreme Court affirmed the order of the Hon'ble Bombay High Court. This ground raised by the assessee is dismissed.

5. Coming to second grounds of appeal which is relating the sustaining the disallowance u/s. 14A of the Act, the Learned Counsel for the assessee submitted that assessee has already allocated the expenditure of ₹.47,042/- as expenses attributable for earning the dividend income. Therefore, he submitted that over and above this no further disallowance

is required to be made. Learned Counsel for the assessee submitted that, Assessing Officer has not recorded any satisfaction and in the absence of recording of any satisfaction on the suo moto disallowance made by assessee no disallowance is required to be made u/s. 14A of the Act. He placed reliance on the decision of the Hon'ble Supreme Court in the case of Maxopp Investment Ltd. v. CIT [402 ITR 640]. Learned Counsel for the assessee further submitted that for the Assessment Year 2008-09 in ITA.No. 4078/Mum/2012 dated 15.12.2017 in assessee's own case the Tribunal allowed the claim of the assessee holding that no disallowance is required to be made as there was no satisfaction recorded by the Assessing Officer.

6. On the other hand, Ld. DR submitted that what has been disallowed by the Assessing Officer is 0.5% of the average investments towards administrative expenses and this disallowance was made based on the working submitted by the assessee as an alternative claim.

7. We have heard the rival submissions, perused the orders of the authorities below. No doubt assessee in its computation of income computed the suomoto disallowance at ₹.47,042/- as against the dividend income earned ₹.83,05,524/- as attributable for earning such dividend income. We find that in the course of Assessment Proceedings when the

assessee was required to justify, an explanation was submitted before the Assessing Officer giving the break up for the suomoto disallowance. We find that an alternative submission was also made, giving the computation of disallowance to be made u/s. 14A r.w. Rule 8D and the Assessing Officer accepted without prejudicial claim and computed the disallowance accordingly. Therefore, since without prejudicial claim has been accepted by the Assessing Officer, we do not see any much grievance to the assessee in agitating that the entire disallowance should be deleted. Hence, this ground is dismissed.

8. In the result, appeal of the assessee is dismissed.

Order pronounced in the open court on the 22<sup>nd</sup> June, 2018.

Sd/-  
**(N.K. PRADHAN)**  
**ACCOUNTANT MEMBER**

Mumbai / Dated 22/06/2018  
Giridhar, Sr.PS

Sd/-  
**(C.N. PRASAD)**  
**JUDICIAL MEMBER**

**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.
- //True Copy//

BY ORDER,

(Asstt. Registrar)  
**ITAT, Mum**