

आयकर अपीलीय अधिकरण, मुंबई न्यायपीठ, 'एच', मुंबई।

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCHES, 'H' MUMBAI**

**श्री जोगिन्दर सिंह, न्यायिक सदस्य एवं
श्री मनोज कुमार अग्रवाल, लेखा सदस्य, के समक्ष**

**Before Shri Joginder Singh, Judicial Member, and
Shri Manoj Kumar Aggarwal, Accountant Member**

**ITA No.780/Mum/2017
Assessment Year: 2012-13**

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| ACIT, Circle-6(3)(2), Room No.522, 5 th Floor, Aayakar Bhavan, M.K. Road, Mumbai-400020 | <u>बनाम/</u> Vs. | M/s Kredence Multi Trading Ltd. 530, Nevyapar Bhavan, P. Demello Road, Carnac Bunder, Mumbai-40009 |
| (राजस्व /Revenue) | | (निर्धारिती /Assessee) |
| PAN. No. AAACS0778A | | |

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|-----------------------------------|----------------------|
| राजस्व की ओर से / Revenue by | Shri Rajat Mittal-DR |
| निर्धारिती की ओर से / Assessee by | None |

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|---|-------------------|
| सुनवाई की तारीख / Date of Hearing: | 20/06/2018 |
| आदेश की तारीख / Date of Order: | 20/06/2018 |

आदेश / O R D E R

Per Joginder Singh(Judicial Member)

The Revenue is aggrieved by the impugned order dated 30/11/2016 of the Ld. First Appellate Authority, Mumbai, restricting the disallowance of Rs.57,94,173/- made under section 14A of the Income Tax Act, 1961 (hereinafter the Act) read with Rule-8D of the rules, to the extent of exempt income of Rs.2,49,084/-, claimed by the assessee, ignoring the CBDT Circular No. 5/2014 dated 11/02/2014.

2. During hearing, Shri Rajat Mittal, Ld. DR, defended the addition made by the Ld. Assessing Officer by advancing arguments which is identical to the ground raised. Nobody was present for the assessee in spite of issuance of RPAD notice, therefore, we have no option but to proceed ex-parte, qua the assessee and tend to dispose of this appeal on the basis of material available on record.

2.1. We have considered the submissions of Ld. DR and perused the material available on record. The facts, in brief, are that the assessee is a limited company engaged in trading of iron and steel and shares/securities, declared income of Rs.3,54,65,793/- in its return, filed on

28/09/2012, which was processed under section 143(1) of the Act, subsequently, the case of the assessee was selected for scrutiny, therefore, notice under section 143(2) and 142(1) were served upon the assessee. The assessee attended the proceedings from time to time and furnished necessary details. During the concerned year, the assessee earned dividend income of Rs.7,49,805/- on old share investment, which was claimed exempt under section 10(34) of the Act. The assessee earned profit of Rs.10,72,550/- on sale of mutual fund and also incurred loss of Rs.15,73,271/-, aggregating net loss of Rs.5,00,721/- on sale of mutual fund. Before the ld. Assessing Officer, the assessee claimed that it did not incur any expenditure for earning dividend income on shares except of Rs.73,614/- as direct expenses, which were disallowed by the assessee itself in its computation. It was claimed by the assessee that exempt income of Rs.2,49,084/- is covered by the decision in the case of Daga Global Chemicals, wherein, it was held that disallowance under section 14A r.w.r.8D should not exceed the exempt income. However, the ld. Assessing Officer made the addition. On appeal before the Ld. Commissioner of Income Tax (Appeal),

the factual matrix was considered and following various decisions in CIT vs SBI DHFL Ltd. (2015) 376 ITR 296 (Bom.), ACIT vs Bandekar Brothers Pvt. Ltd. (2015) 155 ITD 1171 and Auchtel Products Ltd. vs ACIT (2012) 52 SOT 39 (URO) and various other decisions, the Ld. Commissioner of Income Tax (Appeal) restricted the disallowance to the exempt income. No interest bearing funds were utilized for the purposes of investment. Considering the aforesaid decisions of the Tribunal, we are in agreement with the finding of the Ld. Commissioner of Income Tax (Appeal) that disallowance under section 14A of the Act r.w.r 8D of the Rules cannot exceed the exempt income. We affirm the conclusion drawn by the Ld. Commissioner of Income Tax (Appeal), therefore, the appeal of the Revenue is dismissed.

Finally, the appeal of the Revenue is dismissed.

This Order was pronounced in the open court in the presence of Ld. DR at the conclusion of hearing on 20/06/2018.

Sd/-

(Manoj Kumar Aggarwal)

लेखा सदस्य / ACCOUNTANT MEMBER

मुंबई Mumbai; दिनांक Dated : 20/06/2018

Sd/-

(Joginder Singh)

न्यायिक सदस्य / JUDICIAL MEMBER

Shekhar, P.S./नि.स.

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant (Respective assessee)
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT, Mumbai.
4. आयकर आयुक्त / CIT(A)- , Mumbai,
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR,
ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

**उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai**