



ITA.No.1202/Mum/2017  
Dandvati Investments & Trading Co. Pvt. Ltd  
Assessment Year-2012-13

**आयकर अपीलीय अधिकरण "डी" न्यायपीठ मुंबई में।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**"D" BENCH, MUMBAI**

श्री शक्तिजीत दे, न्यायिक सदस्य एवं  
श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।  
**BEFORE SHRI SAKTIJIT DEY, JM AND**  
**SHRI MANOJ KUMAR AGGARWAL, AM**

आयकर अपील सं./I.T.A. No.1202/Mum/2017  
(निर्धारण वर्ष / Assessment Year: 2012-13)

<b>Dandvati Investments &amp; Trading Co.Pvt.Ltd</b> C/o Hindustan Dorr-Oliver Ltd 5 <sup>th</sup> Floor, The International 16, New Marine Lines Cross road No.1, Churchgate Mumbai-400 020	<b>बनाम/ Vs.</b>	<b>Deputy Commissioner of Income Tax-1(3)(2)</b> Mumbai
स्थायी लेखा सं./जी आइ आर सं./PAN/GIR No. <b>AAACD-3925-E</b>		
(अपीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

<b>Assessee by</b>	:	None
<b>Revenue by</b>	:	Ram Tiwari, Ld. DR

<b>सुनवाई की तारीख/ Date of Hearing</b>	:	25/07/2018
<b>घोषणा की तारीख / Date of Pronouncement</b>	:	31/07/2018

**आदेश / ORDER**

**Per Manoj Kumar Aggarwal (Accountant Member)**

1. Aforesaid appeal by assessee for Assessment Year [AY] 2012-13 contest the order of Ld. Commissioner of Income-Tax (Appeals)-2 [CIT(A)], Mumbai, *Appeal No. CIT(A)-2/IT/164-A/2015-16 dated 11/11/2016 qua* confirmation of disallowance u/s 14A. The second



ground pertains to adjustment of legal & professional expense u/s 115JB. None has appeared for assessee and no valid adjournment application is on record. Left with no option, we proceed to dispose-off the same on the basis of material available on record and after hearing Ld. Departmental Representative, *Shri Ram Tiwari*.

2. The assessment for impugned AY was framed by *Ld. Deputy Commissioner Income Tax-1(3)(2), Mumbai [AO] u/s 143(3) of the Income Tax Act, 1961* on 05/01/2015 wherein the loss of the assessee has been determined at Rs.67.42 Lacs under normal provisions after disallowance of Rs.18.58 Lacs u/s 14A as against returned loss of Rs.86.01 Lacs *e-filed* by the assessee on 06/08/2013. The assessee being *resident corporate assessee* primarily acted as *investment holding income*. The surplus funds as invested in Bank fixed deposits and Mutual Funds yielded income in the shape of interest & dividend income. The assessee claimed exempt dividend income of Rs.123.35 Lacs which called for disallowance u/s 14A. The assessee submitted that no expenses were incurred to earn the aforesaid income. However, not convinced Ld. AO, applying Rule 8D, computed aggregate disallowance of Rs.18.58 Lacs which comprised of direct expense disallowance u/r 8D(2)(i) for Rs.0.99 Lacs, interest disallowance u/r 8D(2)(ii) for Rs.1.36 Lacs and indirect expense disallowance u/r 8D(2)(iii) for Rs.16.22 Lacs. Consequently, the loss claimed by the assessee was reduced to that extent. The income for the purpose of Section 115JB was computed at Rs.433.40 Lacs.

3. Aggrieved, the assessee contested the same with partial success before Ld. CIT(A) vide impugned order dated 11/11/2016 wherein Ld.



CIT(A) after thoughtful consideration of the factual matrix deleted interest disallowance u/r 8D(2)(ii) for Rs.1.36 Lacs and confirmed the balance disallowance. Aggrieved, the assessee is in further appeal before us. The Ld. DR has supported the stand of lower authorities.

4. We have carefully heard the submissions and perused relevant material on record. Upon due consideration, we find that the assessee was engaged only in investment activities during impugned AY and its primary source of income was interest and dividend income. This being the case, disallowance u/s 14A read with Rule 8D was rightly invoked by the lower authorities. The Ld. first appellate authority, with due application of mind, has already considered the submissions made by the assessee and allowed partial relief against interest disallowance which was quite fair and justified. One of the grounds taken in the appeal is that no disallowance is called for against strategic investments. The said submissions, in view of recent judgment of Hon'ble Apex Court rendered in *Maxopp Investment Ltd. Vs CIT* [12/02/2018 91 *Taxmann.com* 154] do not hold much water. Therefore, this ground of appeal stand dismissed.

5. In the second ground, the assessee is aggrieved by *non-adjudication* of ground related with adjustment of legal & professional expenses of Rs.17.53 Lacs u/s 115JB, by Ld. CIT(A). We find that this ground was raised by the assessee before Ld. CIT(A) as *ground number-6* but the same has remained to be adjudicated. Therefore, this issue stand remitted back to the file of Ld. CIT(A) for adjudication with a direction to the assessee to the substantiate the same. This ground stand allowed for statistical purposes.



ITA.No.1202/Mum/2017  
Dandvati Investments & Trading Co. Pvt. Ltd  
Assessment Year-2012-13

6. Resultantly, the assessee's appeal stand partly allowed for statistical purposes.

*Order pronounced in the open court on 31<sup>st</sup> July, 2018*

Sd/-  
**(Saktijit Dey)**  
न्यायिक सदस्य / **Judicial Member**

Sd/-  
**(Manoj Kumar Aggarwal)**  
लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 31.07.2018  
Sr.PS:-Thirumalesh

**आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त(अपील) / The CIT(A)
4. आयकरआयुक्त/ CIT– concerned
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, मुंबई/ DR, ITAT, Mumbai
6. गार्डफाईल / Guard File

**आदेशानुसार/ BY ORDER,**

**उप/सहायकपंजीकार (Dy./Asstt.Registrar)**  
**आयकरअपीलीयअधिकरण, मुंबई / ITAT, Mumbai**