

**IN THE INCOME TAX APPELLATE TRIBUNAL
"D" Bench, Mumbai**

**Before Shri R.C. Sharma, Accountant Member
and Shri Ram Lal Negi, Judicial Member**

ITA No. 2717/Mum/2017
(Assessment Year: 2012-13)

M/s. Majestic Infracon P. Ltd.
DB House, Gen, A.K. Vaidya
Marg, Goregaon (E)
Mumbai 400063

D C I T - 12(3)(2)
Aayakar Bhavan, M.K. Road
Vs. Mumbai 400020

PAN – AACCT4160F

Appellant

Respondent

Appellant by: Shri K.G. Bohra
Respondent by: Shri Chaitnya S. Anjaria

Date of Hearing: 17.09.2018
Date of Pronouncement: 19.09.2018

ORDER

Per R.C. Sharma, AM

This appeal has been filed by the assessee against the order of the CIT(A)-20, Mumbai dated 02.12.2016 for A.Y. 2012-13 in the matter of order passed under Section 143(3) of the Income Tax Act, 1961 (hereinafter “the Act”).

2. In this appeal assessee is aggrieved for the disallowance made under Section 14A of the Act r.w. Rule 8D of I.T. Rules.

3. We have heard the rival contentions and found that the disallowance has been made under Section 14A of the Act without considering the fact that the assessee is having no exempt income during the year under consideration. In view of the decision of the Hon'ble Delhi High Court in the case of M/s. Cheminvest Ltd. in ITA No. 479 of 2014 dated 02.09.2015, no disallowance under Section 14A is to be made when there is no exempt income. Accordingly we restore the matter back to the file of the AO to verify assessee's claim that no exempt income has been earned during the

year and to decide the same in terms of the decision of the Hon'ble Delhi High Court in the case of Cheminvest Ltd. (supra).

4. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open court on 19th September, 2018.

Sd/-
(Ram Lal Negi)
Judicial Member

Sd/-
(R.C. Sharma)
Accountant Member

Mumbai, Dated: 19th September, 2018

Copy to:

1. *The Appellant*
2. *The Respondent*
3. *The CIT(A) -20, Mumbai*
4. *The CIT - 12, Mumbai*
5. *The DR, "D" Bench, ITAT, Mumbai*

By Order

//True Copy//

Assistant Registrar
ITAT, Mumbai Benches, Mumbai

n.p.