

sheet and books of account, he noticed that the advances from customers stood at Rs. 4,73,66,679/- as well as loans taken were invested in companies towards long term investments to the tune of Rs.5,05,14,831/-. He, therefore, computed the disallowance u/s 14A r.w.r 8D at Rs. 14,52,640/-

3. Aggrieved by the order of AO, the assessee preferred an appeal before the CIT(A) and submitted that section 14A provides for disallowance of expenditure incurred in relation to income not includible in the total income. However, the AO has considered the disallowance of interest expenditure of Rs. 14,52,640/- against the income claimed as exempt of Rs. 2,59,298/-. She contended that no prudent businessman would incur the expenditure of Rs. 14 lakhs to earn income which is very meagre of Rs. 2.5 lakhs.

4. After considering the submissions of the assessee, the CIT(A) confirmed the disallowance made by the AO.

5. Aggrieved by the order of CIT(A), the assessee is in appeal before us raising the following grounds of appeal:

“1. The order of the learned Commissioner of Income-Tax (Appeals) is erroneous both on facts and in law.

2. The learned Commissioner of Income-Tax (Appeals) erred in confirming the addition made by the Assessing Officer of Rs.14,52,640/- by applying the provisions of Sec.14A of the I.T. Act.

3. The learned Commissioner of Income-Tax (Appeals) ought to have considered the fact that the appellant had substantial capital for investment and that the investment made from out of her own funds and such investment was for the purpose of business of the appellant.

4. The learned Commissioner of Income-Tax (Appeals) ought to have considered the submissions made before

him and deleted the addition made by the Assessing Officer.

5. The learned Commissioner of Income-Tax (Appeals) erred in confirming charging of interest u/s 234B and 234C of the I.T. Act.

6. Any other ground that may be urged at the time of hearing.”

6. Considered the rival submissions and perused the material on record. In this case, the assessee claimed exempt income in the return of income is only Rs. 2,59,298/-, whereas, the AO computed the disallowance of expenditure u/s 14A at Rs. 14,52,640/-. The grievance of the assessee is that disallowance u/s 14A cannot exceed the exempt income. We find that the Hon'ble Delhi High Court in the case of *Joint Investments (P.) Ltd.* All ITAT (5433) ITAT Mumbai (1687) held that the window for disallowance is indicated in section 14A and is only to the extent of disallowing expenditure incurred by the assessee in relation to exempt income. Therefore, we are of the view that disallowance under section 14A cannot exceed the exempt income, and, hence, we direct the assessing officer to restrict disallowance under section 14A to the extent of exempt income earned by the assessee. Accordingly, ground Nos. 2 to 4 are allowed.

6.1 As regards ground No. 5 regarding charging of interest u/s 234B and 234C, charging interest under these sections is mandatory in nature, therefore, the AO is directed accordingly.

6.2 Ground Nos. 1 & 6 are general in nature.

7. In the result, appeal of the assessee is allowed.
Pronounced in the open court on 9th November, 2018.

Sd/-
(P. MADHAVI DEVI)
JUDICIAL MEMBER

Sd/-
(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER

Hyderabad, dated 9th November, 2018

kv

Copy forwarded to:

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2. DCIT, Circle – 9(1), Income-tax Towers, AC Guards, Hyd.
3. CIT(A) - 7 Hyderabad
4. Pr. CIT - 7 Hyderabad
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