



3. Succinctly, the facts of the case are that the assessee earned exempt dividend income, which figure has been given at Rs.1,82,362/- in the grounds of appeal before the Tribunal. No disallowance was offered u/s.14A of the Act read with Rule 8D of the Income Tax Rules, 1962. The AO invoked the provisions of Rule 8D and made disallowance amounting to Rs.14,72,451/-. The Ld. CIT(A) sustained such disallowance.

4. I have heard the ld. DR and perused the relevant material on record. It is found that the assessee earned dividend income of Rs.1,82,362/-, which was claimed as exempt. The Hon'ble Delhi High Court in the case *Cheminvest Ltd. vs. CIT (2015) 378 ITR 33 (Del)* has held that if there is no exempt income, there can be no question of making any disallowance u/s 14A of the Act. Similar view has been taken by the Hon'ble Delhi High Court in *CIT vs. Holcim India P. Ltd. (2014) 90CCH 081-Del-HC*. The net effect of these decisions is that the disallowance u/s 14A gets restricted to the extent of exempt income, even if the provisions of the section are attracted. Similar view has been taken by the Delhi Bench of the Tribunal in several cases including *Indo Hongkong Industries Pvt. Ltd. Vs. DCIT* in ITA Nos. 2611 & 2612/Del/2015 vide its

order dated September, 2018, to which I am a party. No contrary decision has been brought to my notice by the ld. DR. In view of the above precedents, which are squarely applicable to the facts of the instant case, I limit the disallowance to the extent of exempt income of Rs.1,82,362/-.

5. In the result, the appeal is partly allowed.

Order pronounced in the Open Court on 13<sup>th</sup> November, 2018.

Sd/-  
(R.S.SYAL)  
उपाध्यक्ष/ VICE PRESIDENT

पुणे Pune; दिनांक Dated : 13<sup>th</sup> November, 2018  
सतीश

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

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. आयकर आयुक्त(अपील) / The CIT (Appeals)-1, Pune
4. आयकर आयुक्त / The Pr. CIT-1, Pune
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, पुणे "SMC" / DR 'SMC', ITAT, Pune;
6. गार्ड फाईल / Guard file.

**आदेशानुसार/ BY ORDER,**

**/ True Copy //**

Senior Private Secretary  
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune

		Date	
1.	Draft dictated on	12-11-18	
2.	Draft placed before author	12-11-18	
3.	Draft proposed & placed before the second member	-	
4.	Draft discussed/approved by Second Member.	-	
5.	Approved Draft comes to the Sr.PS/PS	12-11-18	
6.	Kept for pronouncement on	13-11-18	
7.	File sent to the Bench Clerk	13-11-18	
8.	Date on which file goes to the AR		
9.	Date on which file goes to the Head Clerk.		
10.	Date of dispatch of Order.		

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