

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'SMC', NEW DELHI**

BEFORE SH. N. K. BILLAIYA, ACCOUNTANT MEMBER

ITA No.851/DEL/2018
Assessment Year: 2014-15

M/s. Datt Enterprises Pvt Ltd. 56, Community Centre, East of Kailash, New Delhi	Vs	Assistant Commissioner of Income Tax, Centre Circle -17, New Delhi
(APPELLANT)		(RESPONDENT)

Appellant by	Sh. Baldev Raj, CA
Respondent by	Sh. S.L. Anuragi, Sr. DR

Date of hearing:	26/11/2018
Date of Pronouncement:	27/11/2018

ORDER

PER N. K. BILLAIYA, AM:

This appeal by the assessee is preferred against the order of the CIT(A)-27, New Delhi dated 04.12.2017 pertaining to A. Y. 2014-15.

2. The only grievance of the assessee is that the CIT(A) erred in confirming the disallowance of Rs.4,21,358/- made by the Assessing Officer u/s 14A of the Income Tax Act.

3. Briefly stated the facts of the case are that during the course of the scrutiny of assessment proceedings, the Assessing Officer noticed that the assessee has earned certain income which it has claimed to be exempt from tax. The Assessing Officer further found that the assessee made investments in shares and therefore disallowance u/s 14A of the Act has to be made. The Assessing Officer found that the assessee has calculated the disallowance made u/s 14A at Rs.1,58,800/-.

4. Applying rule 8D the Assessing Officer computed the disallowance at Rs.5,80,158/- and after deducting of Rs.1,58,800/- disallowance of Rs.4,21,358/- was made. The assessee carried the matter before the CIT(A) but without any success.

5. Before me the counsel for the assessee vehemently stated that the suo-moto disallowance of Rs.1,58,800/- should be sufficient for any disallowance u/s 14A of the Act. Per contra the DR supported the findings of the Assessing Officer.

6. I have carefully considered the orders of the authorities below. There is no dispute that the assessee has suo-moto disallowed of Rs.1,58,800/-. I find that the Assessing Officer has not recorded any dissatisfaction in so far as the accounts of the assessee are concerned. I find that the Assessing Officer has mechanically applied rule 8D without recording any

dissatisfaction. In my considered opinion without recording any dissatisfaction the Assessing Officer should not have proceeded by applying section 14A r/w Rule 8D. I am of the opinion that the suo-moto disallowance of Rs.1,58,800/-should meet the ends of justice. I accordingly direct the Assessing Officer to delete the disallowance of Rs.4,21,358/-.

7. In the result, the appeal is filed by the assessee is allowed.

Order pronounced in the open court on 27.11.2018.

Sd/-
(N. K. BILLAIYA)
ACCOUNTANT MEMBER

NEHA

Date:-27 .11.2018

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI

Date of dictation	25.11.2018
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other member	
Date on which the approved draft comes to the Sr.PS/PS	
Date on which the fair order is placed before the Dictating Member for Pronouncement	
Date on which the fair order comes back to the Sr. PS/ PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which file goes to the Head Clerk.	
The date on which file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	

