

*IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA BENCH "SMC" KOLKATA*

Before **Shri S.S, Godara, Judicial Member**

ITA No.1124/Kol/2018 Assessment Year:2013-14
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Shri Rajiv Mundhra 126, Southern Avenue, Kolkata-700029 [PAN No.AIIPM 7012 J]	<u>बनाम/</u> V/s.	DCIT, Circle-12(2), Aayakar Bhawan, P-7, Chowringhee Square, Kolkata-69
अपीलार्थी /Appellant	..	प्रत्यर्थी /Respondent

अपीलार्थी की ओर से/By Appellant	Shri Ravi Tulsian FCA
प्रत्यर्थी की ओर से/By Respondent	Smt. Madhumalti Ghosh, Addl. CIT-SR-DR
सुनवाई की तारीख/Date of Hearing	23-01-2019
घोषणा की तारीख/Date of Pronouncement	31-01-2019

आदेश /O R D E R

This assessee's appeal for assessment year 2013-14, arises against the Commissioner of Income-tax (Appeals)-4, Kolkata's order dated 19.04.2018 passed in case No.186/CIT(A)-4/C-12(3)/16-17 involving proceedings u/s. 143(3) of the Income Tax Act, 1961; in short 'the Act'.

Heard both the parties. Case file perused.

2. It emerges at the outset that assessee's sole substantive ground pleaded in the instant appeal challenges correctness of CIT(A)'s order confirming Assessing Officer's action disallowing administrative expense u/s 14A r.w.s Rule 8D(2)(iii) of the Income Tax Rule, 1962 amounting to ₹1,39,682/- @ 0.5% average value of investments. Suffice to say, it transpires during the course of hearing that assessee had not claimed any administrative expenditure at all as per its computation forming part

of the case file. This clinching fact forms sufficient reason for me to hold that the impugned disallowance provision sec. 14A r.ws. 8D(2)(iii) does not apply in absence of any actual expenditure being claimed at the assessee's behest. I therefore, delete the impugned disallowance for this precious reason alone as purpose of said statutory provision is to disallow only the expenditure actually incurred. The assessee succeeds in his sole substantive grievance therefore.

3. This assessee's appeal is allowed.

Order pronounced in open court on 31/01/2019

Sd/-
(S.S. Godara)
Judicial Member

Kolkata,

*Dkp/Sr.PS

दिनांक:- 31/01/2019 कोलकाता

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. अपीलार्थी/Appellant-Shri Rajiv Mundhra, 126, Southern Avenue, Kolkata-29
2. प्रत्यर्थी/Respondent-DCIT, Circle-12(2), Aayakar Bhawan, P-7, Chowringhee Square, Kolkata-69
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त- अपील / CIT (A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण कोलकाता / DR, ITAT, Kolkata
6. गार्ड फाइल / Guard file.

/True Copy/

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण,
कोलकाता ।