

**IN THE INCOME TAX APPELLATE TRIBUNAL "A"
BENCH, MUMBAI**

**BEFORE HON'BLE SH. SANDEEP GOSAIN, JM &
HON'BLE SH. G. MANJUNATHA, AM**

आयकरअपीलसं./ I.T.A. No. 488/Mum/2017
(निर्धारणवर्ष / Assessment Year: 2013-14)

A. K. Capital Services Ltd. 403, 4 th floor, East Wing, Tulsiani Chambers, Free Press Journal Marg, 212, Nariman Point, Mumbai-400 021	बनाम/ Vs.	ACIT Circle 3(1)(1), Mumbai Pin-
स्थायीलेखासं ./जीआइआरसं ./PAN No. AAACA1069L		
(अपीलार्थी/Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	Shri Anuj Kisnadwala, AR
प्रत्यर्थीकीओरसे/Respondentby	:	Shri Satishchandra Rajore, DR

सुनवाईकीतारीख/ Date of Hearing	:	24.01.2019
घोषणाकीतारीख / Date of Pronouncement	:	29.03.2019

आदेश / ORDER

Per Sandeep Gosain, Judicial Member:

The present Appeal filed by the assessee is against the order of Ld. CIT (Appeal) – I, New Delhi dated 08.11.16 for AY 2013-14.

2. The solitary ground raised by the assessee relates to challenging the order of Ld. CIT(A) in confirming the disallowance made by AO invoking the provisions of section 14A r.w.r. 8D of the Act.

3. At the very outset, Ld. AR appearing on behalf of the assessee submitted before us that this ground is covered by the order of Hon'ble ITAT in ITA No. 5320/Del/2015 for AY 2012-13 in assessee's own case, wherein the identical ground raised in the present appeal has already been decided on merits.

4. On the other hand, Ld. DR fairly agreed to the contention of Ld. AR that the issue is covered in favour of assessee.

5. We have heard both the parties and we have also perused the material placed on record as well as the orders passed by revenue authorities. We find that the identical ground has already been decided by the Coordinate Bench of Hon'ble ITAT in ITA No. 5320/Del/2015 for AY 2012-13 in assessee's own

case. The operative portion of the order of Hon'ble ITAT passed in ITA No. contained in para no. 7, which is reproduced below:-

7. We have carefully considered the rival contention and find that the during the year the assessee has received the exempt income of INR 2 906964/. The above amount has been disallowed by the assessee himself in the computation of the total income. The learned Commissioner of income tax has deleted the disallowance computed by the learned assessing officer disregarding the above principle. The learned Commissioner of income tax appeals has following the decision of the honourable jurisdictional High Court in case of joint investments private limited vs. CIT (ITA number 117/2015) deleted the above addition. Even the honourable Delhi High Court in case of principal Commissioner of income tax vs. ILFS energy development Ltd 84 taxmann.com 186 has also reaffirmed the above view, even after considering the circular issued by the CBDT dated 11/05/2014. In view of this, we do not find any infirmity in the order of the learned Commissioner of income tax appeals holding that disallowance under section 14 A. Read with rule 8D cannot exceed the exempt income. Accordingly, ground number 1 to 3 of the appeal of the revenue is dismissed.

6. After having gone through the facts of the present case as well as considering the orders passed by revenue authorities and Hon'ble ITAT as mentioned above in assessee's own case, we find that the identical issue has already been decided by the Hon'ble ITAT in ITA No. 5320/Del/2015 for AY 2012-13 in assessee's own case. Therefore, respectfully following the decision of the Coordinate Bench of Hon'ble ITAT and in order to maintain judicial consistency, we apply the same findings in the present case which are applicable *mutatis mutandis* in the present case. Resultantly, this ground raised by the assessee stands **allowed**.

7. In the net result, the appeal filed by the assessee stands **allowed** with no order as to cost.

Order pronounced in the open court on 29th March, 2019.

Sd/-
(G. Manjunatha)
लेखासदस्य / Accountant Member
मुंबई Mumbai; दिनांक Dated : 29.03.2019
Sr.PS. Dhananjay

Sd/-
(Sandeep Gosain)
न्यायिकसदस्य / Judicial Member

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त(अपील) / The CIT(A)
4. आयकरआयुक्त/ CIT- concerned
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, मुंबई/ DR, ITAT, Mumbai
6. गार्डफाईल / Guard File

आदेशानुसार/ BY ORDER,

उप/सहायकपंजीकार

(Dy./Asstt.Registrar)

आयकरअपीलीयअधिकरण, मुंबई/ ITAT, Mumbai