

**आयकर अपीलिय अधिकरण "SMC" न्यायपीठ मुंबई में।**

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

**श्री महावीर सिंह, न्यायिक सदस्य एवं श्री एन. के. प्रधान लेखा सदस्य के समक्ष ।**

**BEFORE SRI MAHAVIR SINGH, JM AND SRI NK PRADHAN, AM**

**आयकर अपील सं./ ITA No. 3308/Mum/2018**

**(निर्धारण वर्ष / Assessment Year 2011-12)**

Shreyas R Mehta, C/o Rasiklal Hiralal & Co., EC 4051-52, Bharat Diamond Bourse, Bandra Kurla Complex Mumbai-400 051	Vs.	The Asst. Commissioner of Income Tax, Central Circle 10(3)(1), Room No. 212, 2 <sup>nd</sup> Floor, Aayakar Bhavan, M.K. Road, Mumbai-400020
<b>(अपीलार्थी / Appellant)</b>	..	<b>(प्रत्यर्थी / Respondent)</b>
<b>स्थायी लेखा सं./PAN No. AACPM8602L</b>		

अपीलार्थी की ओर से / <b>Appellant by</b>	:	Shri Ajay C. Gosalia, AR
प्रत्यर्थी की ओर से / <b>Respondent by</b>	:	Shri Chaitanya Anjaria, DR

सुनवाई की तारीख / <b>Date of hearing:</b>	14-05-2019
घोषणा की तारीख / <b>Date of pronouncement :</b>	21-05-2019

**आदेश / ORDER**

**महावीर सिंह, न्यायिक सदस्य/**  
**PER MAHAVIR SINGH, JM:**

This appeal filed by the assessee is arising out of the order of Commissioner of Income Tax (Appeals)-17, Mumbai [in short CIT(A)], in appeal No. CIT(A)-17/IT-333/10238/17-18, dated 27.03.2018. The Assessment was framed by the Dy. Commissioner of Income Tax, Circle-10(3)1) Mumbai (in short ACIT/ITO/ AO) for AY 2011-12 vide order dated 21.11.2017 under section 143(3) read with section 147 of the Income Tax Act, 1961 (hereinafter 'the Act').



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2. The only issue in this appeal of assessee is against the order of CIT(A) confirming the disallowance of expenses made by the AO on account of expenses relatable to exempt income by invoking the provisions of section 14A of the Act read with Rule 8D(2)(iii) of the Income Tax Rule, 1962 (hereinafter the 'Rules').

3. We have heard the rival contentions and gone through the facts and circumstances of the case. We find that the assessee has claimed dividend income at Rs. 66,90,255/- and claimed the same as exempt. According to AO, the assessee has not attributed any expenses relatable to this exempt income and hence, he required the assessee to explain the same. The AO applied the Rule 8D(2)(iii) and made disallowance of administrative expenses relatable to exempt income at Rs. 2,31,279/-. Aggrieved, assessee preferred the appeal before CIT(A). The CIT(A) also confirmed the action of the AO. Aggrieved, now assessee is now in appeal before Tribunal.

4. Before us, the learned Counsel for the assessee drew our attention to its paper book wherein the assessee has debited the expenses relatable to this earning of the dividend income i.e. bank charges of Rs. 600, custody fee of Rs. 8,273/-, the demat charges of Rs. 39,934/-, the STT charges of Rs. 15,860/-, which are debited in the capital account of the assessee and not claimed in the profit and loss account. According to the learned Counsel these expenses are relatable to earning exempt income and the assessee has not made any claim of these expenses with regard to business expenses. It was claimed by assessee before AO and before us demonstrated by filing the separate accounts maintained for investment purposes as well as for the purpose of business of the assessee. The learned Counsel for the assessee in view of the above stated that the Tribunal in assessee's own case in ITA No. 4495/Mum/2014 for AY 2010-11 i.e. the immediately preceding year



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exactly on same facts and reasoning also deleted the addition vide Para 5 as under: -

*“5. We have heard the rival submissions. It is found that the assessee had not claimed any expenditure against the exempt income. Therefore, in our opinion, the FAA was not justified in confirming the disallowance made by the AO. We find that in the case of Joint Investments Pvt. Ltd.(372ITR694),the Hon’ble Delhi High Court has held that the window for disallowance was indicated in section 14A and was only to the extent of disallowing expenditure “incurred by the assessee in relation to the tax exempt income. Respectfully, following the above decision, we reverse the order of the FAA, as the window was not open for disallowance in the case under appeal-the assessee had not claimed any expenditure to earn the exempt income. Effective ground of appeal, raised by the assessee, is decided in his favour.”*

5. Hence, respectfully following the above, we direct the AO to delete the addition and appeal of the assessee is allowed.

6. **In the result, the appeal assessee is allowed.**

Order pronounced in the open court on 21.05.2019.

Sd/-

(एन. के. प्रधान/ NK PRADHAN)

(लेखा सदस्य / ACCOUNTANT MEMBER)

Sd/-

(महावीर सिंह /MAHAVIR SINGH)

(न्यायिक सदस्य/ JUDICIAL MEMBER)

मुंबई, दिनांक/ Mumbai, Dated: 21.05.2019.

सुदीप सरकार, व.निजी सचिव / Sudip Sarkar, Sr.PS



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**Shreyas R Mehta; AY:2011-12**

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT(A)
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार (Asstt. Registrar)  
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai