

IN THE INCOME TAX APPELLATE TRIBUNAL  
"A" BENCH : BANGALORE

BEFORE SHRI N.V VASUDEVAN, VICE PRESIDNET AND  
SHRI B.R BASKARAN, ACCOUNTANT MEMBER

ITA No.2820/Bang/2018
Assessment year : 2013-14

M/s Coffeeday Enterprises Ltd., No.23/2, Coffeeday Square, Vittal Mallya Road, Bangalore-560 001.  PAN – AADCC 3995 L	Vs.	The Dy. Commissioner of Income-tax, Circle-2(1)(1), Bangalore.
APPELLANT		RESPONDENT

Appellant by	:	Shri C Ramesh, C.A
Respondent by	:	Dr. Shankar Prasad, Addl. CIT

Date of hearing	:	10.06.2019
Date of Pronouncement	:	.06.2019

**ORDER**

*Per B.R Baskaran, Accountant Member*

The assessee has filed this appeal challenging the order dated 12/7/2018 passed by Id CIT(A)-II, Bengaluru and it relates to asst. year 2013-14.

2. The assessee is aggrieved by the decision of Id CIT(A) in confirming the enhancement of disallowance made by the AO over and above the amount disallowed by the assessee u/s 14A of the Act.

3. We heard the parties and perused the record. The assessee is engaged in the business of managing hotels and resorts. The assessee had earned dividend income of Rs.205.44 lakhs and claimed the same as exempt. The assessee disallowed a sum of Rs.3023.29 lakhs u/s 14A of the Act. The AO took the view that the disallowance made by the assessee under Rule 8D(2)(iii) out of administrative expenses has not been computed in accordance with the provisions of Rule 8D. Accordingly he enhanced the disallowance out of administrative expenses to Rs.658.90 lakhs, which resulted in additional disallowance of Rs.557.39 lakhs. The same was confirmed by Id CIT(A) and hence the assessee has filed this appeal before us.

4. The Id AR placed his reliance on the decision rendered by the coordinate bench in the case of Sivan Securities Pvt. Ltd. (ITA No.713 to 715/Bang/2018 dated 8/5/2019) and submitted that the disallowance made u/s 14A cannot exceed the amount of dividend received by the assessee during the year. He submitted that the coordinate bench in the above said case had followed the decision rendered by another coordinate bench in the case of M/s Way2Wealth Securities Pvt. Ltd. (ITA No.1679/Bang/2017) dated 1/6/2018, wherein the said coordinate bench has followed the decision rendered by Hon'ble Delhi High Court in the case of Joint Investment Pvt. Ltd., 372 ITR 694 and Holecim India Pvt. Ltd., 272 CTR 282. The Id AR submitted that the disallowance voluntarily made by the assessee u/s 14A of the Act is more than the amount of dividend and hence no further disallowance is called for, in the facts and circumstances of the case.

5. On the contrary, the Id DR supported the order passed by Id CIT(A).

6. Having heard rival contentions, we are of the view that there is merit in the contentions of the assessee. During the course of hearing the Id AR also submitted that the assessee had received dividend from only one company named M/s Mind Tree Ltd. Further the amount of disallowance made by the assessee Rs.3023.29 lakhs is more than the dividend amount of Rs.205.44 lakhs. Hence, we are of the view that the disallowance voluntarily made by the assessee would meet the requirements of sec.14A of the Act. Accordingly we are of the view that further disallowance made by the AO and confirmed by Id CIT(A) is not warranted in the facts and circumstances of the case. Accordingly we set aside the order passed by Id CIT(A) on this issue and direct the AO to delete further addition made by him u/s 14A of the Act.

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

Order pronounced in the Open Court on **10<sup>th</sup> June, 2019.**

**Sd/-**  
**(N.V Vasudevan)**  
**Vice President**

**Sd/-**  
**(B.R Baskaran)**  
**Accountant Member**

Bangalore,  
Dated, 10<sup>th</sup> June, 2019.  
/ vms /

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR, ITAT, Bangalore.
6. Guard file

By order

Asst. Registrar, ITAT, Bangalore.

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2. Date on which the typed draft is placed  
before the dictating Member .....
3. Date on which the approved draft comes to Sr.P.S  
.....
4. Date on which the fair order is placed  
before the dictating Member .....
5. Date on which the fair order comes back to the Sr.  
P.S. ....
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