

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

**BEFORE SH. R. K. PANDA, ACCOUNTANT MEMBER**

ITA No.5107/Del/2018  
Assessment Year: 2015-16

Dalmia Finance Ltd. C/o. Vinod Kumar Bindal & Co. Chartered Accountants, D-219, Vivek Vihar, Phase-I, New Delhi-110095 PAN No. AABCD5533H	Vs	Addl. CIT Special Range-3 New Delhi
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>

Appellant by	Shri Vinod Kumar Bindal, CA Ms. Rinky Sharma, ITP
Respondent by	Sh. S. L. Anuragi, Sr. DR

Date of hearing:	09/05/2019
Date of Pronouncement:	13/06/2019

**ORDER**

**PER R.K. PANDA, AM:**

This appeal filed by the assessee is directed against the order dated 15.05.2018 of the CIT(A)-34, New Delhi relating to A. Y. 2015-16.

2. The only effective ground raised by the assessee reads as under :-

*“1. The learned CIT(A) erred in law and on facts in confirming an addition of Rs.1,35,696/- u/s. 14 A of the Act by applying Rule 8D though actually no expenses as such were incurred to earn the tax*

*exempt income on very old investments as against the amount of Rs.31,780/- disallowed voluntarily by the assessee while ignoring the judgment of the Apex Court, facts, written submissions and evidences placed on record and rejecting the bonafide explanation of the assessee. Thus, the addition should be deleted.”*

3. Facts of the case, in brief are that the assessee is a non banking finance company registered with RBI. It filed its return of income on 29.05.2015 declaring loss of Rs.1,06,067/-. The Assessing officer during the course of assessment proceedings compared the balance sheet as on 31.03.2014 and 31.03.2015 and noted that the company has shown to have invested its funds in equity shares, which stood at Rs.3,18,47,955/- as at the beginning of the year and at Rs.3,51,42,432/- as at the end of the year. However, the assessee has disallowed Rs.31,780/- as expenses which have been incurred to carry out the activity of investments and earning of exempt income. He, therefore, asked the assessee to explain as to why disallowance u/s. 14A r/w Rule 8D should not be made.

4. Rejecting the various explanation given by the assessee, the Assessing Officer made disallowance of Rs.1,35,696/-. While doing so, he computed the disallowance u/s. 14A r/w Rule 8 D at Rs. 1,67,476/-. After deducting the amount of Rs.31,780/- already disallowance by the assessee itself, the Assessing Officer made the disallowance of Rs.1,35,656/-.

5. In appeal the Ld. CIT(A) upheld the action of the Assessing Officer.

6. Aggrieved with such order of the CIT(A) the assessee is in appeal before the Tribunal.

7. The Ld. Counsel for the assessee submitted that no borrowed funds have been utilized for investment in share the income of which is exempt. He submitted that sine no interest expenditure has been incurred for investment in the shares and assessee has already suo moto disallowed an amount of Rs.31,780/- towards administrative expenses which is in consonance with precedings years disallowance, therefore, no further disallowance is called for.

8. He relied upon the following decisions :-

1. Resurgere Mines & Minerals India Ltd. Vs. Additional CIT vide ITA No.6601/Del/2014
2. PCIT Vs. Sintex Industries Ltd. 2018 TIOL-104-SC-IT
3. PCIT Vs. Sintex Industries Ltd. 2017-TIOL-104-SC-IT
4. PCTI Vs. Sintex Industries Ltd. 2017-TIOL-1025-HC-AHM-IT
5. Maxopp Investment Ltd. Vs, CIT [2018] 91 taxmann.com 154 (SC)

9. The Ld. DR on the other hand heavily relied on the order of the CIT(A).

10. I have considered the rival arguments made by both the sides and perused the material available on record. I have also considered the various decisions cited before me. I find the Assessing Officer invoking the provisions of section 14A r/w Rule 8D computed the disallowance of Rs.1,67,476/- as the expenses incurred in relation to earning tax free income. After deducting the disallowance of Rs.31,780/- made by the assessee itself, the Assessing Officer made addition of Rs.1,35,696/- to the total income of the assessee u/s. 14A rule 8D which has been confirmed by the CIT(A). I find the Assessing Officer while making the disallowance has given a finding that investment in shares and securities have been made out of borrowed funds. It is the submission of the Ld. Counsel for the assessee that no borrowed funds have been utilized for making the investment and no new investments have been made during the year. Considering the totality of the facts of the case and in the interest of justice I deem it proper to restore the issue to the files of the Assessing Officer with a direction to verify the records properly and decide the issue as per fact and law after giving a reasonable opportunity of being heard to the assessee. I hold and direct accordingly. The ground raised by the assessee is allowed for statistical purpose.

11. In the result, the appeal filed by the assessee is allowed for statistical purpose.

Order pronounced in the open court on 13.06.2019.

**Sd/-**  
**(R.K PANDA)**  
**ACCOUNTANT MEMBER**

*\*Neha\**

Date:- 13.06.2019

Copy forwarded to:

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

ASSISTANT REGISTRAR  
ITAT NEW DELHI

Date of dictation	
Date on which the typed draft is placed before the dictating 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	13.06.2019
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	