

**IN THE INCOME TAX APPELLATE TRIBUNAL  
(DELHI BENCH 'F' : NEW DELHI)**

**BEFORE HON'BLE VICE PRESIDENT, SHRI G.D. AGRAWAL  
and  
SHRI KULDIP SINGH, JUDICIAL MEMBER**

**ITA No.185/Del./2017  
(ASSESSMENT YEAR : 2013-14)**

DCIT, Circle 20 (1), vs. M/s. Punj Lloyd Aviation Private Ltd.,  
New Delhi. 17 – 18, Punj Lloyd House,  
Nehru Place,  
New Delhi – 110 019.

**(PAN : AAECP2851M)**

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Shri Rajat Jain, CA

Shri Akshat Jain, CA

REVENUE BY : Shri Surender Pal, Senior DR

Date of Hearing : 10.06.2019

Date of Order : 02.07.2019

**ORDER**

**PER KULDIP SINGH, JUDICIAL MEMBER :**

Appellant, DCIT, Circle 20 (1), New Delhi (hereinafter referred to as the 'Revenue') by filing the present appeal sought to set aside the impugned order dated 21.10.2016 passed by the Commissioner of Income-tax (Appeals)-12, New Delhi qua the assessment year 2013-14 on the grounds inter alia that :-

*"1. "On the facts and under the circumstances of the case, the Ld.CIT(A) has erred in law in deleting the addition of Rs.1,00,63,722/- made by the AO u/s 14A of the Income Tax Act,*

*1961 without appreciating the fact that the AO After recording his satisfaction under the provisions of section 14A, had correctly computed the disallowance under the Rule 8D of the Income Tax Rules."*

*2. "On the facts and under the circumstances of the case, the Ld.CIT(A) has erred in law in deleting the addition of Rs.1,00,63,722/- made by the AO u/s 14A without appreciating that the assessee's own funds were less than the amount invested in the shares of the group company and that the interest expenditure incurred was of a mixed nature and not attributable to any particular income or receipt."*

2. Briefly stated the facts necessary for adjudication of the controversy at hand are : assessee is into the business of airlines and helicopter operators for transporting passengers, mail, cargo, freight to Indian and international tourists and is also providing charter services and consultancy services in the field of aircraft/helicopter procurement. During the year under assessment, assessee filed return of income declaring loss of Rs.10,24,88,425/- and AO noticed that the assessee had shown investment of Rs.52,99,87,500/- in shares to earn dividend income which is exempt under the Income-tax Act, 1961 (for short 'the Act'). AO, after invoking the provisions contained u/s 14A read with Rule 8D, made disallowance of Rs.1,00,63,722/- on the ground that the assessee has not made any disallowance u/s 14A to earn exempt income and thereby assessed the total loss of Rs.9,24,24,700/-.

3. Assessee carried the matter by way of an appeal before the Id. CIT (A) who has deleted the addition by allowing the appeal.

Feeling aggrieved, the Revenue has come up before the Tribunal by way of filing the present appeal.

4. We have heard the Id. Authorized Representatives of the parties to the appeal, gone through the documents relied upon and orders passed by the revenue authorities below in the light of the facts and circumstances of the case.

5. Ld. DR for the Revenue challenging the impugned order contended inter alia that the AO has worked out the disallowance under Rule 8D as per accounts rendered by the assessee having been duly explained at the second last page of the assessment order; that section 114 of the Evidence Act, 1872 raises presumption in favour of the Revenue that there was non-satisfaction of the AO and relied upon the decision rendered by Hon'ble Supreme Court in *Maxopp Investment Ltd. (2018) 402 ITR 640 (SC)*.

6. However, on the other hand, the Id. AR for the assessee to repel the arguments addressed by Id. DR contended that since the assessee company has not earned any exempt income during the year under assessment forming part of the total income under section 14A read with Rule 8D is not attracted and relied upon the decisions of *Hon'ble Apex Court in CIT, Central 1 vs. Chettinad Logistics (P.) Ltd. (2018) 95 taxmann.com 250 (SC) and Pr. CIT*

*vs. Oil Industry Development Board (2019) 103 taxmann.com 326 (SC).*

7. Undisputedly, no exempt income has been earned by the assessee during the year under assessment on the investment made. When we examine the impugned order passed by the Id. CIT (A), we find that he has deleted the addition made on account of disallowance made u/s 14A of the Act on the premise that the assessee has not earned any exempt income during the year under assessment, hence no disallowance can be made u/s 14A of the Act. This issue has been repeatedly decided by Hon'ble Supreme Court in case of *CIT, Central 1 vs. Chettinad Logistics (P.) Ltd. and Pr. CIT vs. Oil Industry Development Board* (supra) relied upon by the Id. AR for the assessee.

8. Hon'ble Apex Court in case of *Pr. CIT vs. Oil Industry Development Board* (supra) held that when there is no exempt income earned by the assessee during the year under assessment, disallowance u/s 14A of the Act is not permissible. Similarly, Hon'ble Apex Court in case of *CIT, Central 1 vs. Chettinad Logistics (P.) Ltd.* (supra) held that, "where there is no exempt income i.e. dividend was not earned during the relevant assessment year by the assessee, section 14A is not be attracted."

9. In view of the matter, decision of *Maxopp Investment Ltd.* (supra) relied upon by the ld. DR for the Revenue challenging the impugned order passed by the ld. CIT (A) is not applicable to the facts and circumstances of this case. So, we are of the considered view that the ld. CIT (A) has rightly arrived at the decision that when there is no exempt income earned by the assessee during the relevant assessment year, no disallowance can be made by invoking the provisions contained u/s 14A of the Act. So, finding no illegality or perversity in the impugned order passed by the ld. CIT (A), present appeal filed by the Revenue is hereby dismissed.

**Order pronounced in open court on this 2<sup>nd</sup> day of July, 2019.**

**Sd/-  
(G.D. AGRAWAL)  
VICE PRESIDENT**

**sd/-  
(KULDIP SINGH)  
JUDICIAL MEMBER**

**Dated the 2<sup>nd</sup> day of July, 2019  
TS**

Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT(A)-12, New Delhi.
- 5.CIT(ITAT), New Delhi.

**AR, ITAT  
NEW DELHI.**