

THE INCOME TAX APPELLATE TRIBUNAL  
“SMC” Bench, Mumbai  
Before Shri Shamim Yahya (AM)

I.T.A. No. 4522/Mum/2018 (Assessment Year 2013-14)

Gajanan Enterprises 4 <sup>th</sup> Floor, Rustom Building 29, Veer Nariman Road Fort, Mumbai-400 001.  PAN : AAKFG7595A (Appellant)	Vs.	ACIT Circle-17(1) Mumbai.  (Respondent)
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Assessee by	None
Department by	Shri Chaitanya Anjaria
Date of Hearing	4.7.2019
Date of Pronouncement	23.8.2019

ORDER

This appeal by the assessee is directed against order of learned CIT-A dated 25.5.2018 and pertains to assessment year 2013-14.

2. The issue raised is that learned CIT-A erred in sustaining the disallowance under section 14A, ignoring the fact that assessee was holding the investments as the stock in trade.

3. I have heard the learned departmental representative and perused the records. None appeared on behalf of the assessee despite notice. I note that learned CIT-A has decided the issue against the assessee by placing reliance upon the decision of honourable apex court in the case of Maxopp Investment. The decision of learned CIT-A may be gainfully referred as under :-

*“The sole issue is whether when shares are held in from stock-in-trade disallowance under section 14A r.w. rule 8D can be made or not. The appellant made written submission which inter alia includes certain case decisions. This includes PCIT vs. State Bank of Patiala [2017] 391 ITR 218 (P&H). However in Maxopp Investment Ltd vs CIT, New Delhi the Hon. Supreme Court in Civil Appeal 104-109 of 2015 dated*

*12.02.2018 has held that even if investment is held as stock-in-trade section 14A applies. Hence the issue stand settled judicially”.*

4. Since the above issue has been decided against the assessee by following the latest decision of the honourable apex court, I do not find any substance in the ground raised by the assessee. Accordingly this appeal filed by the assessee stands dismissed.

Order has been pronounced in the Court on 23.8.2019.

Sd/-  
(SHAMIM YAHYA)  
ACCOUNTANT MEMBER

Mumbai; Dated : 23.8.2019

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT
5. DR, ITAT, Mumbai
6. Guard File.

//True Copy//

BY ORDER,

(Assistant Registrar)  
ITAT, Mumbai

PS