

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH : D : NEW DELHI

BEFORE SHRI R.K. PANDA, ACCOUNTANT MEMBER
AND
SHRI KULDIP SINGH, JUDICIAL MEMBER

ITA No.3315/Del/2016
Assessment Year: 2013-14

ITO,
Ward-12(2),
New Delhi,.

Vs Incredible Capital Ltd.,
8/19, Ground Floor,
Smile Chamber,
WEA, Karol Bagh,
New Delhi.

PAN: AABCI4307C

(Appellant)

(Respondent)

Assessee by	:	Shri Lalit Mohan, CA
Revenue by	:	Dr. Vijay Kumar Chadha, Sr. DR
Date of Hearing	:	12.09.2019
Date of Pronouncement	:	24.09.2019

ORDER

PER R.K. PANDA, AM:

The appeal filed by the Revenue is directed against the order dated 25th April, 2016 of the CIT(A)-4, New Delhi relating to assessment year 2013-14.

2. Deletion of addition of Rs.4,26,82,986/- made by the u/s 14A is the only issue raised by the Revenue in the grounds of appeal.

3. Facts of the case, in brief, are that the assessee is a company engaged in the business of providing financial services and other allied activities. It filed its return of income on 18th March, 2014, declaring total income of Rs.54,21,430/-. During the assessment proceedings, the Assessing Officer noted that the assessee company has paid interest amounting to Rs.4,26,82,986/- which included interest of Rs.58,43,588/- to Religare on term loan and Rs.3,68,39,588/- to others. He, therefore, asked the assessee to explain as to why disallowance u/s 14A should not be made, since the assessee is paying huge interest of Rs.4.27 crores and has invested in non-current investment amounting to Rs.33.76 crores and Rs.49.20 crores in certain loans and advances. It was explained by the assessee that the provisions of section 14A of the Act are not applicable since it has not earned any exempt income from the respective investment. For the above proposition, the assessee relied on various decisions. However, the Assessing Officer was not satisfied with the arguments advanced by the assessee and made disallowance of Rs.4,26,82,986/- under the provisions of section 14A of the IT Act.

4. In appeal, the Id.CIT(A), relying on the decisions of the Hon'ble Delhi High Court in the case of *CIT vs. Holcim India (P) Ltd.*, in the case of *Cheminvest Ltd. vs. CIT 61 Taxmann.com 118* and various other decisions, deleted the addition on the ground that the assessee has not received any exempt income during the year. Further, he also held that the Assessing Officer has not ascertained the correctness of the claim of the assessee in respect of the expenditure incurred or not incurred in

relation to the income which does not form part of the total income under the Act and further, there is no satisfaction recorded by the Assessing Officer in terms of section 14A(iii) of the IT Act.

5. Aggrieved with such order of the CIT(A), the Revenue is in appeal before the Tribunal.

6. We have considered the rival arguments made by both the sides and perused the orders of the Assessing Officer and CIT(A). We find, the Assessing Officer, in the instant case, made disallowance of Rs.4,26,82,986/- u/s 14A of the IT Act on the ground that the assessee has paid huge interest of Rs.4.27 crores and has invested an amount of Rs.33.76 crores in non-current investment and Rs.49.20 crores in certain loans and advances. We find the Id.CIT(A) deleted the disallowance on the ground that the assessee has not received any exempt income during the year and, further the Assessing Officer has not recorded any satisfaction while making disallowance u/s 14A of the Act. We do not find any infirmity in the order of the CIT(A) in deleting the disallowance made by the Assessing Officer by relying on the decision of the Hon'ble Delhi High Court in the case of *CIT vs. Holcim India (P) Ltd.*, and the decision in the case of *Cheminvest Ltd. vs. CIT (supra)* wherein it is held that in absence of receipt of any exempt income no disallowance u/s 14A can be made. The Id. DR also could not controvert the findings given by the CIT(A) that the Assessing Officer has not recorded his satisfaction while making disallowance u/s 14A. Since the Id.CIT(A) while

deleting the disallowance has followed the decision of the Hon'ble High Court which has since been upheld by the Hon'ble Supreme Court, therefore, in absence of any distinguishable features brought to our notice, we do not find any infirmity in the order of the CIT(A) deleting the disallowance. Accordingly, the same is upheld and the ground raised by the Revenue is dismissed.

7. In the result, the appeal filed by the Revenue is dismissed.

The decision was pronounced in the open court on 24.09.2019.

Sd/-

(KULDIP SINGH)
JUDICIAL MEMBER

Sd/-

(R.K. PANDA)
ACCOUNTANT MEMBER

Dated: 24th September, 2019

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1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asstt. Registrar, ITAT, New Delhi