

**IN THE INCOME TAX APPELLATE TRIBUNAL  
SMC, "A" BENCH : BANGALORE**

**BEFORE SHRI B.R BASKARAN, ACCOUNTANT MEMBER**

ITA No.1553/Bang/2019
Assessment year : 2014-15

M/s Kivar Holdings Pvt. Ltd., No.18C, 1 <sup>st</sup> B Main, HSR Layout, Sector-6, Hosur-Sarjapur Road, Bengaluru-560 034.	Vs.	The Asst. Commissioner of Income-tax, Circle-4(1)(2), Bengaluru
PAN – AACCS 7712 C		
<b>APPELLANT</b>		<b>RESPONDENT</b>

Appellant by	:	Shri S Ramasubramanian, C.A
Respondent by	:	Shri Ganesh R Ghale, Advocate Standing Counsel to Dept.

Date of hearing	:	05.11.2019
Date of Pronouncement	:	05.11.2019

**ORDER**

*Per B.R Baskaran, Accountant Member*

The assessee has filed this appeal challenging the order dated 10-05-2019 passed by Ld CIT(A)-12, Bengaluru and it relates to the assessment year 2014-15. The solitary issue urged in this appeal relate to the disallowance made u/s 14A of the Act.

2. The Ld A.R submitted that the assessee is engaged in the business of making investments and providing consultancy services. During the year under consideration, the assessee did not earn any dividend income. The AO noticed that the assessee has held investments as at the opening and closing of the year.

Accordingly, the AO worked out disallowance u/s 14A of the Act at Rs.40,49,451/- as per provisions of Rule 8D of IT Rules. The Ld CIT(A) confirmed the same.

3. The Ld A.R placed his reliance on the decision rendered by Hon'ble Delhi High Court in the case of Cheminvest Ltd vs. DCIT (378 ITR 33) and submitted that the disallowance u/s 14A is not warranted when there is no exempt income. He further submitted that the above said decision was followed by the co-ordinate bench in the case of M/s Ambuthirtha Power P Ltd vs. DCIT (ITA No.243 (Bang) 2016 dated 07-07-2017). Accordingly he submitted that the disallowance made u/s 14A of the Act should be deleted.

4. On the contrary, the Ld D.R supported the order passed by Ld CIT(A).

5. I heard the parties and perused the record. There is no dispute with regard to the fact that the assessee did not receive any exempt income during the year under consideration. Hence, as per the decision rendered by Hon'ble Delhi High Court in the case of Cheminvest Ltd (supra), no disallowance u/s 14A of the Act is called for. I also notice that the decision rendered by Hon'ble Delhi High Court has been followed by the Bangalore bench of Tribunal in the case of M/s Ambuthirtha Power P Ltd (supra). Hence, in my view, the Ld CIT(A) was not justified in confirming the disallowance made by AO u/s 14A of the Act. Accordingly I set aside the order passed by Ld CIT(A) on this issue and direct the AO to delete the

disallowance made u/s 14A of the Act during the year under consideration.

6. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on **5<sup>th</sup> November, 2019.**

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

Bangalore,  
Dated, the 5<sup>th</sup> November, 2019.

/Vms/

Copy to:

1. Appellant (s) / Cross Objector(s)
2. Respondent(s)
3. CIT
4. CIT(A)
5. 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 .....
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