

**IN THE INCOME TAX APPELLATE TRIBUNAL
"RAJKOT" BENCH, RAJKOT**

[Conducted through E-Court at Ahmedabad]

**BEFORE SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER
& SMT. MADHUMITA ROY, JUDICIAL MEMBER**

आयकर अपील सं./I.T.A. No. 36/Rjt/2018
(निर्धारण वर्ष / Assessment Year : 2010-11)

M/s. Jayshree Finvest Ltd. Ground Floor, Ajay Mension, Malaviya Road, Rajkot	बनाम/ Vs.	The Commissioner of Income Tax Appeal-3 Rajkot
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AAAAS2360J		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

अपीलार्थी ओर से /Appellant by :	None (Written Submission)
प्रत्यर्थी की ओर से / Respondent by :	Mr. Suhas Mistry, Sr.D.R.

सुनवाई की तारीख / Date of Hearing	14/10/2019
घोषणा की तारीख /Date of Pronouncement	15/11/2019

आदेश/ORDER

PER PRADIP KUMAR KEDIA - AM:

The captioned appeal has been filed at the instance of the assessee against the order of the Commissioner of Income Tax(Appeals)-3, Rajkot ('CIT' in short), dated 16.11.2017

arising in the assessment order dated 30.03.2013 passed by the Assessing Officer (AO) under s. 143(3) of the Income Tax Act, 1961 (the Act) concerning AY 2010-11.

2. The solitary ground of appeal raised by the assessee concerns disallowance of Rs.9,69,399/- made under s.14A r.w. Rule 8D of the Income Tax Rules.

3. When the matter was called for hearing, none appeared for the assessee. However, a written submission was placed on record. The matter was accordingly proceeded *ex parte* on the basis of written submissions filed.

4. The learned DR for the Revenue relied upon the order of the CIT(A).

5. We have carefully considered the rival submissions. As per the submissions, the assessee seeks to submit that the assessee being a dealer in shares and securities and holds shares as trading assets, the dividend income generated from such trading asset is not susceptible to the disallowance under s.14A of the Act. We find that the issue is no longer *res integra*. The Hon'ble Supreme Court in *Maxopp Investment Ltd. vs. CIT [2018] 402 ITR 640 (SC)* has *inter alia* hold that Section 14A of the Act applies irrespective of whether the shares are held as stock-in-trade or as capital asset. Thus, in view of the decision

of the Hon'ble Supreme Court, we see no merit in the plea of the assessee.

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

This Order pronounced in Open Court on 15/11/2019

Sd/-
(MADHUMITA ROY)
JUDICIAL MEMBER
Ahmedabad: Dated 15/11/2019

Sd/-
(PRADIP KUMAR KEDIA)
ACCOUNTANT MEMBER

True Copy

S. K. SINHA

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. राजस्व / Revenue
2. आवेदक / Assessee
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त- अपील / CIT (A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद /
DR, ITAT, Ahmedabad
6. गार्ड फाइल / Guard file.

By order/आदेश से,

Deputy/Asstt. Registrar
ITAT, Rajkot

**IN THE INCOME TAX APPELLATE TRIBUNAL
"RAJKOT" BENCH, RAJKOT**

[Conducted through E-Court at Ahmedabad]

**BEFORE SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER
& SMT. MADHUMITA ROY, JUDICIAL MEMBER**

आयकर अपील सं./I.T.A. No. 36/Rjt/2018
(निर्धारण वर्ष / Assessment Year : 2010-11)

M/s. Jayshree Finvest Ltd. Ground Floor, Ajay Mension, Malaviya Road, Rajkot	बनाम/ Vs.	The Commissioner of Income Tax Appeal-3 Rajkot
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AAAAS2360J		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

अपीलार्थी ओर से /Appellant by :	None (Written Submission)
प्रत्यर्थी की ओर से / Respondent by :	Mr. Suhas Mistry, Sr.D.R.

सुनवाई की तारीख / Date of Hearing	14/10/2019
घोषणा की तारीख /Date of Pronouncement	15/11/2019

आदेश/ORDER

PER PRADIP KUMAR KEDIA - AM:

The captioned appeal has been filed at the instance of the assessee against the order of the Commissioner of Income Tax(Appeals)-3, Rajkot ('CIT' in short), dated 16.11.2017

arising in the assessment order dated 30.03.2013 passed by the Assessing Officer (AO) under s. 143(3) of the Income Tax Act, 1961 (the Act) concerning AY 2010-11.

2. The solitary ground of appeal raised by the assessee concerns disallowance of Rs.9,69,399/- made under s.14A r.w. Rule 8D of the Income Tax Rules.

3. When the matter was called for hearing, none appeared for the assessee. However, a written submission was placed on record. The matter was accordingly proceeded *ex parte* on the basis of written submissions filed.

4. The learned DR for the Revenue relied upon the order of the CIT(A).

5. We have carefully considered the rival submissions. As per the submissions, the assessee seeks to submit that the assessee being a dealer in shares and securities and holds shares as trading assets, the dividend income generated from such trading asset is not susceptible to the disallowance under s.14A of the Act. We find that the issue is no longer *res integra*. The Hon'ble Supreme Court in *Maxopp Investment Ltd. vs. CIT [2018] 402 ITR 640 (SC)* has *inter alia* hold that Section 14A of the Act applies irrespective of whether the shares are held as stock-in-trade or as capital asset. Thus, in view of the decision

of the Hon'ble Supreme Court, we see no merit in the plea of the assessee.

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

This Order pronounced in Open Court on 15/11/2019

Sd/-
(MADHUMITA ROY)
JUDICIAL MEMBER
Ahmedabad: Dated 15/11/2019

Sd/-
(PRADIP KUMAR KEDIA)
ACCOUNTANT MEMBER

True Copy

S. K. SINHA

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. राजस्व / Revenue
2. आवेदक / Assessee
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त- अपील / CIT (A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद /
DR, ITAT, Ahmedabad
6. गार्ड फाइल / Guard file.

By order/आदेश से,

Deputy/Asstt. Registrar
ITAT, Rajkot