

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

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

**ITA No.244/Del./2016
(Assessment Year : 2009-10)**

M/s. Pinewood Information Systems Pvt. Ltd., vs. ACIT,
C – 160, Okhla Industrial Area, Phase – I, Central Circle 11,
New Delhi – 110 020.

(PAN : AADCP7011N)

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Shri R.S. Ahuja, Advocate
REVENUE BY : Shri S.S. Rana, CIT DR

Date of Hearing : 27.11.2019
Date of Order : 28.11.2019

ORDER

PER KULDIP SINGH, JUDICIAL MEMBER :

Appellant, M/s. Pinewood Information Systems Pvt. Ltd.
(hereinafter referred to as the 'assessee') by filing the present
appeal sought to set aside the impugned order dated 27.11.2013
passed by the Commissioner of Income-tax (Appeals)-XXXI, New
Delhi qua the assessment year 2009-10 on the grounds inter alia
that:-

***“That on the facts & circumstances of the case the
learned ITO & the CIT(A) erred in :***

1) Assessing the Income of Rs. 13,03,42,286/- as against Rs.12,10,16,551/- (including the surrendered income of Rs.11,90,00,000/-).

2) Making the Additions of the amount of Rs. 11,90,00,000 on account of bogus Purchases in spite of the fact that the actual Purchases from the same parties were Rs.78,93,726/- and Rs.11,11,06,274 was wrongly offered for tax in the return of income.

3) Upholding the Assessment & addition of Rs. 4,13,658/-u/s 14A inspite of the fact that the Assessment for the year had abated in terms of section 153A & no incriminating material was unearthed in the course of search & seizure operations.

4) Disallowing Rs.4,13,658/- under Section 14A of the Income Tax Act.

5) Disallowing u/s 14A without the Assessing Officer giving any finding in the assessment order regarding the amount of actual expenditure incurred by the assessee to earn tax-free income.

6) Not following the orders of the jurisdictional High Court in this matter.”

2. Briefly stated the facts necessary for adjudication of the issue at hand are : Assessing Officer (AO) noticed that during the year under assessment, the assessee company has made investment of Rs.5,57,48,277/- on which dividend income was earned. AO by invoking the provisions contained under section 14A of the Income-tax Act, 1961 (for short ‘the Act’) read with Rule 8D of the Income-tax Rules, 1962 (for short ‘the Rules’) made

disallowance of Rs.93,00,035/- and thereby added the same to the income of the assessee.

3. Assessee carried the matter by way of an appeal before the Id. CIT (A) who has confirmed the addition made by the AO by partly allowing the appeal. Feeling aggrieved, the assessee 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.

GROUND NO.1 & 2

5. Grounds No.1 & 2 are dismissed having not been pressed during the course of arguments.

GROUND NO.3, 4, 5 & 6

6. The Id. AR for the assessee challenging the impugned order contended that no expenditure has been incurred by the assessee qua the investment made during the year under assessment nor any dividend has been earned and as such, no disallowance can be made.

7. Ld. DR for the Revenue, on the other hand, relied on the orders of the lower Revenue authorities.

8. Perusal of the profit & loss account brought on record by the assessee shows that no expenditure has been incurred by the assessee during the year under assessment nor any dividend earned. It is settled principle of law that when no dividend has been earned by the assessee, there cannot be any disallowance u/s 14A of the Act.

9. Hon'ble Delhi High Court in the case of *Cheminvest Limited vs. CIT (2015) 378 ITR 33* has held that, "*In the absence of exempt income, disallowance u/s 14A of any amount was not permissible.*" So, we are of the considered view that since assessee has not earned any dividend income nor proved to have incurred any expenditure on the investment during the year under assessment, no disallowance can be made, hence disallowance of Rs.4,13,658/- is ordered to be deleted.

10. Resultantly, the appeal filed by the assessee is allowed.

Order pronounced in open court on this 28th day of November, 2019.

**Sd/-
(R.K. PANDA)
ACCOUNTANT MEMBER**

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

**Dated the 28th day of November, 2019
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Copy forwarded to:

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

AR, ITAT
NEW DELHI.
