

**IN THE INCOME TAX APPELLATE TRIBUNAL "SMC", BENCH
MUMBAI**

BEFORE SHRI R.C.SHARMA, AM & SHRI VIKAS AWASTHY, JM

**ITA No. 6701/Mum/2018
(Assessment Year: 2013-14)**

Dinesh Jayantilal Jain, 208/209, Jodia Mansion, Ganpatrao Kadam Marg, Mumbai.	Vs.	I.T.O.-21(1)(3), Mumbai.
PAN/GIR No.AABPJ 4702 F		
(Appellant)	..	(Respondent)

Assessee by	Shri Dinesh Jayantilal Jain
Revenue by	Shri Kumar Padmapani Bora (Sr.DR)
Date of Hearing	11/12/2019
Date of Pronouncement	12/12/2019

आदेश / ORDER

PER: R.C. SHARMA, A.M.

This is the appeal filed by the assessee against the order of the Id. CIT(A)-48, Mumbai dated 19/09/2018 for the A.Y. 2013-14 in the matter of order passed U/s 143(3) of the Income Tax Act, 1961 (in short, the Act).

2. The only grievance of the assessee relates to disallowance of the expenses made U/s 14A of the Act read with Rule 8D of the Income Tax Rules, 1962 (in short, the Rules).
3. Rival contentions have been heard and record perused. Facts in brief are that the assessee was earning income from business and

capital gains. During the course of scrutiny assessment, the A.O. found that the assessee has earned dividend income of Rs. 61,427/-, which was claimed as exempt. He invoked provisions of Section 14A of the Act and computed the disallowance in respect of interest expenditure under Rule 8D of the Rules, accordingly, disallowance of Rs. 6,57,235/- was made. By the impugned order, the Id. CIT(A) confirmed the disallowance, against which the assessee is in further appeal before the ITAT.

4. We have considered the rival contentions and carefully gone through the orders of the authorities below and found from the record that during the year under consideration, the assessee has dividend income of Rs. 61,427/- which was claimed as exempt. The A.O. found that the assessee has incurred interest expenditure which was claimed against exempt income. Accordingly, he invoked provisions of Section 14A of the Act and computed proportionate disallowance under Rule 8D of the Rules amounting to Rs. 6,57,235/-. It is now well settled by various judicial pronouncements that the disallowance U/s 14A of the Act cannot exceed the exempt income. The Hon'ble Punjab & Haryana High Court in the case of PCIT Vs State Bank of Patiala (2017) 393 ITR 476 (P&H) and the Hon'ble Delhi High Court in the case of PCIT Vs Caraf Builders & Constructions (P) Ltd. (2019) 414 ITR 122 (Del) have held that the disallowance U/s 14A of the Act cannot exceed the exempt

income. The Id AR also placed on record various judicial pronouncements of the ITAT to the same effect. We had deliberated on the various judicial pronouncements following the proposition laid down therein, we direct the A.O. to restrict the disallowance U/s 14A of the Act to the extent of exempt income which is Rs. 61,427/- in the instant case. We direct accordingly.

5. In the result, appeal of the assessee is allowed in part.

Order pronounced in the open court on 12th December, 2019.

Sd/-
(VIKAS AWASTHY)
JUDICIAL MEMBER

Sd/-
(R.C.SHARMA)
ACCOUNTANT MEMBER

Mumbai; Dated 12/12/2019

*Ranjan

Copy of the Order forwarded to :

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

सत्यापित प्रति //True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai