



ITA No.4680/Mum/2018  
M/s. Ajaya Jain HUF  
Assessment Year-2011-12

**आयकर अपीलीय अधिकरण “ऐ” न्यायपीठ मुंबई में।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**“A” BENCH, MUMBAI**

**माननीय श्री विकास अवस्थी, न्यायिक सदस्य एवं**  
**माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।**  
**BEFORE HON’BLE SHRI VIKAS AWASTHY, JM AND**  
**HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM**

आयकरअपील सं./ I.T.A. No.4680/Mum/2018  
(निर्धारणवर्ष / Assessment Year: 2011-12)

<b>M/s. Ajaya Jain HUF</b> 31, Maker Tower-A Cuffe Parade, Mumbai-400 005.	<b>बनाम/</b> Vs.	<b>ACIT -12(3)</b> Aaykar Bhavan, M.K. Road Mumbai-400 020.
<b>स्थायीलेखासं./जीआइआरसं./PAN/GIR No. AAAHA-0026-L</b>		
(अपीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )
अपीलार्थी की ओर से/ <b>Appellant by</b>	:	Shri Matrudev Vasudevan-Ld. AR
प्रत्यर्थीकीओरसे/ <b>Respondent by</b>	:	Shri S. Michael Jerald- Ld. DR
सुनवाई की तारीख/ <b>Date of Hearing</b>	:	17/12/2019
घोषणा की तारीख / <b>Date of Pronouncement</b>	:	17/12/2019

**आदेश / O R D E R**

**Manoj Kumar Aggarwal (Accountant Member): -**

1. Aforesaid appeal by assessee for Assessment Year [in short referred to as ‘AY’] 2011-12 contest the order of Ld. Commissioner of Income-Tax (Appeals)-55, Mumbai [in short referred to as ‘CIT(A)’], *Appeal No. CIT(A)-55/IT-141/17-18 dated 17/05/2018* on following grounds of appeal: -



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The Commissioner of Income Tax (Appeals)-55, Mumbai [hereinafter referred to as CIT (A)] erred in holding that the Assistant Commissioner of Income Tax, Circle-12(3), Mumbai (hereinafter referred to as the ACIT) was right in disallowing a sum of Rs.2,93,929/- under section 14A of the Act as per Rule 8D(2)(iii) as expenses relatable to earning of exempt income and adding the same in computing the income for the above assessment year. The Appellant submits that:

- a) no expenditure has been incurred for earning the exempt income,
- b) the ACIT has not given any findings that he is not satisfied with the correctness of the Appellant's claim that no expenditure has been incurred in relation to earning of exempt income & accordingly no addition should have been made by resorting to the provisions of sub-section (2) of section 14A of the Act.

The appellant therefore prays that the addition of Rs.2,93,929/- made by the ACIT be deleted.”

As evident from grounds of appeal, the sole subject matter of present appeal is disallowance u/s 14A.

2. We have heard and considered the rival submissions and perused relevant material on record and also deliberated on judicial pronouncements as cited before us. Our adjudication to the issue would be as given in succeeding paragraphs.

3. Facts on record would reveal that the assessee being resident HUF, stated to be engaged in the business of trading in derivatives contracts, was assessed for year under consideration u/s. 143(3) on 18/03/2014 wherein the assessee was saddled with disallowance u/s 14A for Rs.2.93 Lacs in view of the fact that it earned exempt dividend income of Rs.7.26 Lacs. The assessee submitted that no expenditure was incurred to earn the exempt income. However, disregarding the same, Ld. AO made impugned disallowance, in terms of Rule 8D, as submitted by the assessee during the course of assessment proceedings. The stand of Ld. AO, upon confirmation by learned first appellate authority, is under challenge before us.



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4. Upon careful consideration, we find that it was the submissions of the assessee that no expenditure was incurred by it to earn the exempt income. However, Ld. AO did not consider the same having regards to the accounts of the assessee. In our considered opinion, it was incumbent on the part of Ld. AO to arrive at judicious and objective satisfaction as to why the assessee's submissions were not acceptable. Non-recording of the said satisfaction would oust the jurisdiction of Ld. AO to compute the disallowance in terms of Sec. 14A r.w.r. 8D since statutory provisions mandate Ld. AO to record such satisfaction before proceeding to compute the disallowance in terms of Rule 8D. The perusal of Profit & Loss Account, as placed on record, would reveal that, besides statutory taxes and levies, the assessee has debited expenditure of Rs.8,273/- only on account of audit fees. Therefore, in the given factual matrix, the impugned disallowance could not be sustained under law. By deleting the same, we allow the appeal.

5. The appeal stands allowed.

*Order pronounced in the open court on 17<sup>th</sup> December, 2019.*

**Sd/-**

**(Vikas Awasthy)**

न्यायिक सदस्य / **Judicial Member**

**Sd/-**

**(Manoj Kumar Aggarwal)**

लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 17/12/2019  
Sr.PS:-Jaisy Varghese



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**आदेश की प्रतिलिपि ँ ग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त(अपील) / The CIT(A)
4. आयकरआयुक्त/ CIT– concerned
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, मुंबई/ DR, ITAT, Mumbai
6. गार्डफाईल / Guard File

**आदेशानुसार/ BY ORDER,**

**उप/सहायकपंजीकार (Dy./Asstt.Registrar)  
आयकरअपीलीयअधिकरण, मुंबई / ITAT, Mumbai.**