

IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'A' BENCH,
NEW DELHI

BEFORE SHRI BHAVNESH SAINI, JUDICIAL MEMBER, AND
SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER

ITA No. 996/DEL/2017
[Assessment Year: 2012-13]

Balbir Singh Makkar
E - 413, Greater Kailash
Part - II, New Delhi

Vs.

The A.C.I.T
Circle 61(1)
New Delhi

PAN: ABGPS 1042 M

[Appellant]

[Respondent]

Date of Hearing : 06.01.2020
Date of Pronouncement : 06.01.2020

Assessee by : Shri Vineet Garg, Adv

Revenue by : Shri Sanjay Gopal, CIT-DR

ORDER

PER N.K. BILLAIYA, ACCOUNTANT MEMBER,

This appeal by the assessee is preferred against the order of the
Commissioner of Income Tax [Appeals] - 20 New Delhi dated
19.12.2016 pertaining to Assessment Year 2012-13.

2. The solitary grievance of the assessee is that the CIT(A) erred in law and on facts in sustaining the impugned addition of Rs. 1,43,261/- on account of disallowance as per section 14A of the Income tax Act, 1961 [hereinafter referred to as 'The Act' for short] r.w.r 8 D of the I.T. Rules, 1962.

3. Briefly stated, the facts of the case are that the assessee earned dividend income of Rs. 20,735/- and claimed the same to be exempt. Invoking the provisions of section 14A of the Act r.w.r 8D of the Rules, the Assessing Officer computed the disallowance at Rs. 1,43,261/-.

4. The assessee carried the matter before the Id. CIT(A) but without any success.

5. Before us, the Id. counsel for the assessee vehemently stated that on the facts of the case, section 14A of the Act r.w.r 8D of the Rules is not applicable.

6. Per contra, the Id. DR strongly supported the findings of the Assessing Officer.

7. We have carefully considered the orders of the authorities below. There is no dispute that the dividend income earned by the assessee is at Rs. 20,735/-. In our considered opinion, the upper limit for disallowance should not exceed the exempt income of the year as held by the Hon'ble High Court of Delhi in the case of PCIT Vs. Mcdonald's India Pvt Ltd ITA No. 725 of 2018 decided on 22.10.2018. Respectfully following the decision of the Hon'ble High Court [supra], we direct the Assessing Officer to restrict the disallowance to Rs. 20,735/-

8. In the result, the appeal filed by the assessee in ITA No. 996/DEL/2017 is partly allowed.

The order is pronounced in the open court on 06.01.2020.

Sd/-

**(BHAVNESH SAINI)
JUDICIAL MEMBER**

Sd/-

**(N. K. BILLAIYA)
ACCOUNTANT MEMBER**

Dated: 06th January, 2020.

VL/

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar
ITAT, New Delhi

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