

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. 3982/DEL/2017
[Assessment Year: 2010-11]

KDDL Ltd
SCO, 88-89, Sector 8C
Chandigarh

Vs.

The DCIT
Circle 5(1)
New Delhi

PAN: AAACK 1929 M

[Appellant]

[Respondent]

Date of Hearing : 09.01.2020
Date of Pronouncement : 10.01.2020

Assessee by : Shri Abhishek Agarwal, CA

Revenue by : Shri Ved Prakash Mishra, Sr. 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] - 44, New Delhi dated 16.12.2016 pertaining to Assessment Year 2010-11.

2. The sum and substance of the grievance of the assessee is that the CIT(A) erred in sustaining the disallowance of Rs. 61,81,775/- made by the Assessing Officer by invoking provisions of section 14A of the Income tax Act, 1961 [hereinafter referred to as 'The Act' for short] r.w.r 8D of the I.T. Rules, 1962.

3. Briefly stated, the facts of the case are that during the course of scrutiny assessment proceedings, the Assessing Officer noticed that the assessee has shown dividend income of Rs. 1.20 lakhs and claimed the same to be exempt. The Assessing Officer was of the firm belief that provisions of section 14A r.w.r 8D squarely apply. Invoking the provisions of the said rule, the Assessing Officer computed disallowance at Rs. 6,22,948/-.

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 the Assessing Officer has wrongly computed the

disallowance u/r 8D in as much as the Assessing Officer should have taken into consideration only those investments which generated exempt income. The ld. counsel for the assessee furnished correct calculation as per Rule 8D which is as under:

<i>Particulars</i>		<i>Amount ('Rs.)</i>
Direct expenditure	1	-
Interest expenditure	2 = (A*B)/C	45,626
0.5% of value of investment	3 = 10,00,000*0.5%	5,000
Total disallowance as per Rule 8D	1+2+3	50,626

<i>Working for 2:</i>		
Interest expenses	A	393,26,783
Average value of investment [(10,00,000+10,00,000)/2]	B	10,00,000
Average value of assets [(89,35,05,064+83,03,54,764)/2]	C	8619,29,914

6. The ld. DR supported the findings of the Assessing Officer.

7. We have given thoughtful consideration to the orders of the authorities below and have perused the computation of disallowance furnished by the assessee as mentioned hereinabove. We find force in the contention of the ld. counsel for the assessee. Only that average value of

investment has to be taken into consideration which results into exempt income. We, accordingly, remit the matter to the file of the Assessing Officer. The Assessing Officer is directed to examine the computation of disallowance as mentioned hereinabove and decide the issue afresh after giving reasonable opportunity of being heard to the assessee.

8. In the result, the appeal filed by the assessee in ITA No. 3982/DEL/2017 is treated as allowed for statistical purposes.

The order is pronounced in the open court on 10.01.2020.

Sd/-

**(BHAVNESH SAINI)
JUDICIAL MEMBER**

Sd/-

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

Dated: 10th January, 2020.

VL/

Copy forwarded to:

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

Asst. Registrar
ITAT, New Delhi

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr.PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr.PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	