

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

**BEFORE SHRI MAHAVIR SINGH, JM  
&  
SHRI M.BALAGANESH, AM**

**ITA No.6320/Mum/2018  
(Assessment Year : 2014-15)**

M/s. Alco Company Pvt. Ltd. 3 <sup>rd</sup> Floor, Rahimtoola House 7, Homji Street, Fort Mumbai – 400 001	Vs.	Asst. Commissioner of Income Tax, Circle 1(1)(1) Ayakar Bhavan, M K Road Mumbai – 400 020
<b>PAN/GIR No. AAACA1031G</b>		
<b>(Appellant)</b>	..	<b>(Respondent)</b>

Assessee by	Ms. Tasneem Varawala
Revenue by	Shri Michael Jerald
<b>Date of Hearing</b>	<b>07/01/2020</b>
<b>Date of Pronouncement</b>	<b>15/01/2020</b>

**आदेश / ORDER**

**PER M. BALAGANESH (A.M):**

This appeal in ITA No.6320/Mum/2018 for A.Y.2014-15 arises out of the order by the Id. Commissioner of Income Tax (Appeals)-2, Mumbai in appeal No.CIT(A)-2/IT/10315/2016-17 dated 14/05/2018 (Id. CIT(A) in short) against the order of assessment passed u/s.143(3) of the Income Tax Act, 1961 (hereinafter referred to as Act) dated 07/11/2016 by the Id. Asst. Commissioner of Income Tax – 1(1)(1), Mumbai (hereinafter referred to as Id. AO).

2. The only issue to be decided in this appeal is as to whether the Id. CIT(A) was justified in upholding the disallowance made u/s.14A of the Act r.w.r.8D of the rules in the facts and circumstances of the case.

3. We have heard rival submissions and perused the materials available on record. We find that the assessee had earned exempt income in the sum of Rs.23,47,99,599/-. The assessee had made suo-moto disallowance u/s.14A of the Act in the sum of Rs.21,56,725/- which admittedly comprises of disallowance of direct expenses in the sum of Rs.5,22,401/- and remaining towards indirect expenses. The Id. AO however, proceeded to make disallowance under rule 8D(2) of the rules under first limb for Rs.5,22,401/- and under third limb for Rs.50,52,267/-. After reducing the disallowance already made by the assessee in the sum of Rs.21,56,725/-, the Id. AO made net disallowance of Rs.34,17,943/- u/s.14A of the Act in the assessment. Before us there is no dispute with regard to disallowance of direct expenses made in the sum of Rs.5,22,401/- by the Id. AO. The Id. AR placed on record the copy of this Tribunal's order in its own case for A.Y.2010-11 dated 30/07/2018 wherein the issue was remanded to the file of the Id. AO to decide in the light of decision of Hon'ble Supreme Court in the case of Maxopp Investments reported in 402 ITR 640. But we find from the perusal of the assessment order that the Id. AO had duly considered the ultimate principles laid down by the Hon'ble Supreme Court in Maxopp Investments by properly excluding the investments made in foreign companies which would yield taxable income while considering the average value of investments for the purpose of disallowance under third limb of rule 8D(2) of the rules. We find that this working of the Id. AO has been upheld by the Id. CIT(A), which in our considered opinion, does not warrant any interference. Accordingly, the grounds raised by the assessee are dismissed.

**4. In the result, appeal of the assessee is dismissed.**

Order pronounced in the open court on this 15/01/2020

**Sd/-**  
**(MAHAVIR SINGH)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(M.BALAGANESH)**  
**ACCOUNTANT MEMBER**

Mumbai; Dated 15/01/2020  
KARUNA, *sr.ps*

**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.

//True Copy//

BY ORDER,

(Asstt. Registrar)  
ITAT, Mumbai