

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH “G”, MUMBAI
Before Shri Pawan Singh (JM) & Shri S.Rifaur Rahman(A.M.)

ITA No. 6564/Mum/2018(Assessment year : 2014-15)

Solid Stone Company Limited, 1501, Maker Chambers-V, Nariman Point, Mumbai-400 021 PAN : AAACS9989D	vs	The Dy.CIT, Cir.4(3)(2), Mumbai
APPELLANT		RESPONDEDNT

Appellant by	Shri Subham Rathi AR
Respondent by	Shri Vinod Kumar Sr DR
Date of hearing	14-01-2020
Date of pronouncement	14 -01-2020

ORDER

PER PAWAN SINGH, JM :

1. This appeal by assessee is directed against the order of CIT(A)-2, Mumbai dated 25-09-2018 for assessment year 2014-15. The assessee has raised the following ground of appeal:-

“1 On Facts & in Law, the Learned Commissioner of Income tax (Appeals)-2, Mumbai [the CIT (A)] erred in confirming the disallowance made by the Deputy Commissioner of Income Tax, Circle-4(3)(2), Mumbai (the 'AO') of Rs.3,11,975/- on account of Section 14A of the Income Tax Act,1961 ('Act¹).

2 On Facts & in Law, the CIT (A) erred in holding that the appellant agreed for disallowance under Section 14A of the Act and thereby erred in confirming disallowance made by the AO of Rs.3,11,975/-.”

2. Brief facts of the case are that assessee is a company engaged in trading of stones. During the assessment, the AO asked the assessee to furnish complete details of investment on which the assessee earned exempt income and issued show cause notice as to why disallowance of expenditure for earning exempt income should not be made in accordance with section 14A read with Rule 8D of I.T. Rules, 1962. The assessee filed its reply and contended that the assessee made investment in shares for controlling stock. The AO invoked the provisions of Rule 8D and computed disallowance u/s 14A r.w.r. 8D(2)(ii) and 8D(2)(iii) of Rs.3,11,975/-. On appeal, the Ld. CIT(A) upheld the addition. Thus, further aggrieved, the assessee has filed the present appeal before us.
3. At the outset of hearing, the Ld.AR of the assessee submits that grounds of appeal raised in the present appeal is covered in favour of assessee by various decisions of Tribunal and various Hon' ble High Courts. The Ld.AR further submits that during the year under consideration, the assessee has not earned any exempt income. Therefore, no disallowance u/s 14A is warranted. The Ld.AR of the assessee also filed its P&L Account ending on March, 2014. The assessee further furnished the Note on non-applicability of section

- 14A. The assessee, in the balance-sheet / P&L Account has not shown any exempt income. In support of his submission, the Ld.AR of the assessee relied upon the decision of Tribunal in DCIT vs Future Market Network Ltd in ITA No.5234/Mum/2017 dated 30-01-2019.
4. On the other hand, the Ld. departmental representative (DR) for the revenue relied upon the order of lower authorities.
 5. We have considered the rival submissions and perused the material available on record. On perusal of assessment record we find that there is no finding of the assessing officer with regard to earning of any exempt income by assessee during the relevant period under consideration. It is a settled position now in taxation law that in case of no exempt income during the year, no disallowance to be made u/s 14A. Similar view was taken by co-ordinate bench of the Tribunal in DCIT vs Future Market Network Ltd (supra), relied by ld. AR for the assessee. In this view of the aforesaid discussions, we do not find any merit in the addition/ disallowance made by the lower authority. Thus, we direct the AO to delete the entire disallowance under section 14A.
 6. In the result, appeal of the assessee is allowed. No order as to cost.

Order pronounced in the open court on 14 -01-2020.

Sd/-

Sd/-

(S.Rifaur Rahman)	(Pawan Singh)
ACCOUNTANT MEMBER	JUDICIALMEMBER

Mumbai, Dt : 14th January, 2019

Pk/-

Copy to :

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

/True copy/

By order

Asstt. Registrar, ITAT, Mumbai