

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'B', NEW DELHI**

**BEFORE SH.SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER  
AND  
SH. PRASHANT MAHARISHI, ACCOUNTANT MEMBER**

ITA No.6107 to 6110/Del/2016  
(Assessment Year: 2010-11 to 2013-14)

Eldeco Housing & Industries Ltd. 201-202, 2 <sup>nd</sup> Floor, Plot No.3, Splendor Forum, District Centre, Jasola, New Delhi PAN No.AAACE4554G	Vs	ACIT Central Circle Noida
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>

Appellant by	Sh. Sanjay Kumar, CA
Respondent by	Ms. Nidhi Srivastava, CIT DR

Date of hearing:	07/11/2019
Date of Pronouncement:	06/02/2020

**ORDER**

**PER PRASHANT MAHARISHI, AM:**

1. These are the four appeals pertaining to one assessee for Assessment four Years 2010-11 to 2013-14 on single issue of disallowance confirmed by the ld CIT(A)-IV, Kanpur u/s 14A of the Act. Important to note that assessee has earned exempt income of Rs. 131380/- for Assessment Year 2010-11. The AO has disallowed expenditure of Rs. 1740908/-, has earned exempt income of Rs. 29928/- for Assessment Year 2011-12 and disallowance is Rs. 1629107/-, the exempt income for Assessment Year 2013-14 is Rs. 146868/- and disallowance of Rs. 1557560/- and for Assessment Year 2012-13, the exempt income is Rs. 2068 and disallowance of Rs. 1369731/-.
2. We first take the facts for Assessment Year 2010-11. The assessee is a listed company engaged in real estate developers promoters and builders activities. The ld AO made the disallowance u/s 14A of the Act amounting to Rs. 1740908/- to the return income of Rs. 62793273/- filed on 21.05.2013 and

assessed vide order dated 24.03.2014 u/s 153A of the Act at Rs. 64534181/-. The above disallowance was challenged before the Id CIT(A) who confirmed the same. Therefore, the assessee is in appeal before us.

3. The Id AR submitted that the assessee has received dividend income during the year of Rs. 131380/- from Union Bank and Punjab National Bank Ltd only. He submitted that the total investment made by the assessee in these two companies is merely Rs. 295000/-. He submitted that at the most average value of investment is only Rs. 295000/- only. With respect to the interest expenditure, he submitted that against the Investment of Rs. 12.72 crores the interest free funds are to the tune of Rs. 44 crores and therefore, there cannot be any disallowance on account of interest. Hence, disallowance made by the AO and Id CIT(A) is erroneous.
4. The Id DR vehemently supported the order of the lower authorities.
5. We have carefully considered the rival contentions and also perused the orders of the lower authorities. In the present case the assessee has interest free funds in the form of share capital and reserve of Rs. 44.87 crores which exceeds the investment made by the assessee for earning exempt income by three times, naturally there cannot be any disallowance of interest under Rule 8D. Hence, the disallowance of Rs. 1104372/- made on account of interest under Rule 8D being indirectly attributable to the exempt income deserves to be deleted. Further, Rs. 6365326/- is disallowed being 0.5% of average value of investment. For this sum only 0.5% of investment which yielded tax exempt income is to be considered. Accordingly the Id AO directed to retain the addition only 0.5% of Rs. 295000/-. In the result appeal of the assessee for Assessment Year 2010-11 is partly allowed.
6. Coming to the appeal of the assessee for Assessment Year 2011-12, arguments of both the parties are same. In this year, assessee has earned dividend income of Rs. 29928/- only. The share capital and free reserve is Rs. 50.41 crores against the investment of Rs. 8.73 crores. The total investment in the shares from which dividend is received is also Rs. 2.95 lakhs. Therefore, for the reason given by us for Assessment Year 2010-11 we direct the Id AO to delete the

disallowance of interest Rs. 109240/- and further restrict the disallowance of ½ % of average investment of Rs. 536704/- to Rs. 1475/- only. Accordingly, ITA No. 6108/Del/2016 filed by the assessee for Assessment Year 2011-12 is also partly allowed.

7. For Assessment Year 2012-13 the assessee has earned exempt income of Rs. 2068/- only where the investment in the shares yielding exempt income were only Rs. 1.11 lakhs and the share capital was far more than investment, we direct the ld AO to delete the disallowance of interest expenditure of Rs. 930565/- and restrict expenses disallowance to 0.5% of investment in Punjab National Bank of Rs. 111060/-. Accordingly, appeal of the assessee is partly allowed.
8. For Assessment Year 2013-14 the assessee has earned the exempt dividend income of Rs. 146868/- of average value of investment of Rs. 295060/- and the interest free funds were Rs. 64.17 crores and total investment of Rs. 8 crores. For the similar reasons, we direct the ld AO to delete the interest expenditure disallowed of Rs. 1136535/- under Rule 8D and to restrict the expenses disallowed of 0.5% of average value of investment of Rs. 295060/- to Rs. 1475/- only. Accordingly, appeal of the assessee is partly allowed.
9. In the result all the appeals are disposed off.

Order pronounced in the open court on 06/02/2020.

-Sd/-  
**(SUDHANSHU SRIVASTAVA)**  
**JUDICIAL MEMBER**

-Sd/-  
**(PRASHANT MAHARISHI)**  
**ACCOUNTANT MEMBER**

\*AK KEOT \*

Date:- 06/02/2020

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1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR  
ITAT NEW DELHI