

**IN THE INCOME TAX APPELLATE TRIBUNAL KOLKATA BENCH '[A(SMC)]', KOLKATA
[Before Shri P.M. Jagtap, Vice President (KZ) & Shri S.S. Godara, JM]**

I.T.A. No. 175/Kol/2020
Assessment Year: 2012-13

M/s. Glorious Holdings Pvt. Ltd.....Appellant
B-11 & 12, Bhiwandiwalla Terrace,
Marine Lines, Ground Floor,
Maharashtra - 400 002.
[PAN: AACCG 4244 K]

Vs

ITO, Ward - 2(3), Kolkata.....Respondent
P-7, Chowringhee Square,
Kolkata - 700 069.

Appearances by:

Shri Miraj D. Shah, AR appearing on behalf of the Assessee.

Smt. Ranu Biswas, Addl. CIT appearing on behalf of the Revenue.

Date of concluding the hearing : February 14, 2020

Date of pronouncing the order : February 14, 2020

ORDER

PER P.M. JAGTAP, VICE-PRESIDENT (KZ)

This appeal filed by the assessee is directed against the order of ld. CIT(A) - 1, Kolkata dated 28.11.2019 and the solitary issue involved therein relates to the disallowance of Rs. 18,75,900/- made by the AO and confirmed by the ld. CIT(A) u/s 14A of the Income Tax Act, 1961, r.w.r. 8D of the Income Tax Rules 1962.

2. The assessee in the present case is a non-banking financial institution. The return of income for the year under consideration was filed by it on 26.03.2013 declaring a total income of Rs. 68,091/-. Although substantial investment was made by the assessee company

in the shares of other companies, no disallowance u/s 14A on account of expenses incurred in relation to the said investment was offered by the assessee u/s 14A of the Act on the ground that it had not earned any exempt income in the form of dividend during the year under consideration. The AO did not accept this stand of the assessee and made a disallowance of Rs. 18,07,807/- u/s 14A by applying Rule 8D of the Income Tax Rules, 1962. On appeal, the Id. CIT(A) confirmed the said disallowance made by the AO. Aggrieved by the order of the Id. CIT(A), the assessee has preferred this appeal before the Tribunal.

3. We have heard the arguments of both the sides and also perused the relevant material available on record. As agreed by the learned representatives of both the sides, the issue involved in the present case is squarely covered in favour of the assessee by the various judicial pronouncements. In one of such decisions rendered in the case of PCIT vs IL & FS Energy Development Company Ltd. 84 taxmann.com 186, Hon'ble Delhi High Court held that no disallowance u/s 14A can be made if the assessee has not earned any exempt income in the relevant year. Hon'ble Calcutta High Court has also held in the case of CIT vs Ashika Global Securities Ltd. (ITAT 100 of 2014) that in the absence of any exempt income actually earned by the assessee during the relevant year, there was no question of making any disallowance u/s 14A r.w.r. 8D. Respectfully following the ratio of judicial pronouncements, we delete the disallowance made by the AO and confirmed by the Id. CIT(A) u/s 14A r.w.r. 8D and allow this appeal of the assessee.

4. In the result, the appeal of the assessee is allowed.

Order Pronounced in the Open Court on 14th February, 2020.

Sd/-
(S.S. GODARA)
JUDICIAL MEMBER

Sd/-
(P.M. JAGTAP)
VICE PRESIDENT

Dated: 14/02/2020

Biswajit, Sr. PS

Copy of order forwarded to:

1. M/s. Glorious Holdings Pvt. Ltd., B-11 & 12, Bhiwandiwala Terrace, Marine Lines, Ground Floor, Maharashtra – 400 002.
2. ITO, Ward-2(3), Kolkata.
3. The CIT(A)
4. The CIT
5. DR

True Copy,

By order,

Assistant Registrar / H.O.O.
ITAT, Kolkata