

IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'A' BENCH,
NEW DELHI

BEFORE SHRI H.S. SIDHU, JUDICIAL MEMBER, AND
SHRI N.K. BILLAIYA ACCOUNTANT MEMBER

ITA No. 5656/DEL/2016
[A.Y 2012-13]

The I.T.O
Ward 3(4)
New Delhi

Vs. M/s Athena Energy Ventures [P] Ltd
J - 38, 2nd Floor, B.K. Dutt, Colony
Jor Bagh Lane, New Delhi

PAN : AAGCA 2179 K

[Appellant]

[Respondent]

Date of Hearing : 24.02.2020
Date of Pronouncement : 25.02.2020

Assessee by : None

Revenue by : Shri S.N. Pandey, Sr. DR

ORDER

PER N.K. BILLAIYA, ACCOUNTANT MEMBER,

This appeal by the revenue is preferred against the order of the
CIT(A) - 1, New Delhi dated 01.08.2018 pertaining to A.Y 2012-13.

2. The solitary grievance of the revenue is that the CIT(A) erred in
deleting the addition of Rs. 3,55,46,083/- made by the Assessing

Officer u/s 14A of the Income-tax Act, 1961 [hereinafter referred to as 'The Act']

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 made investment in shares amounting to Rs. 789.02 lakhs. The Assessing Officer was of the firm belief that such investments have been made for the purpose of earning exempt income and long term capital gains which are exempt and not taxable to tax. Invoking the provisions of section 14A of the Act r.w.r 8D of the Rules, the Assessing Officer computed the disallowance at Rs. 3,55,46,8,083/-.

4. The assessee challenged the addition before the Id. CIT(A) and vehemently contended that during the year, the assessee has not earned any exempt income. Therefore, no disallowance need be made u/s 14A of the Act.

5. The Id. CIT(A) was convinced with the contention of the assessee that the assessee has not earned any exempt income, therefore, no disallowance need be made u/s 14A of the Act.

6. Before us, the ld. DR strongly supported the findings of the Assessing Officer.

7. None appeared on behalf of the assessee. Therefore, we decided to proceed ex-parte.

8. We have given thoughtful consideration to the orders of the authorities below. There is no dispute that during the year the assessee did not earn any exempt income from tax. We find that the assessee has pointed out to the ld. CIT(A) that no exempt income is earned during the year under consideration. Since there is no exempt income earned during the year under consideration, no disallowance is to be made u/s 14A r.w.r 8D of the Act. This issue is by now well settled in favour of the assessee and against the revenue by the decision of the Special Bench of the Tribunal in the case of M/s Cheminvest Ltd 121 ITD 318 which was reversed by the Hon'ble High Court of Delh 61 Taxman.com 118. Same view is taken by the Hon'ble Gujarat High Court in the case of Corrttech Energy (P) Ltd 372 ITR 97. In view of the above, disallowance of Rs. 3,55,46,083/- is directed to be deleted. Ground raised by the revenue is dismissed.

9. In the result, the appeal of the Revenue in ITA No. 5656/DEL/2016 is dismissed.

The order is pronounced in the open court on 25.02.2020.

Sd/-

[H.S. SIDHU]
JUDICIAL MEMBER

Sd/-

[N.K. BILLAIYA]
ACCOUNTANT MEMBER

Dated: 25th February, 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	
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Date on which the file goes to the Head Clerk	
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Date of dispatch of the Order	