

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES 'Friday/A', NEW DELHI**

Before Ms. Sushma Chowla, Vice President

Dr. B. R. R. Kumar, Accountant Member

ITA No. 9092/Del/2019 : Asstt. Year : 2016-17

Seth Dua & Associates, 601-603, 607-608, DLF South Court, Saket, New Delhi-110017	Vs	ACIT, Circle-61(1), New Delhi
(APPELLANT)		(RESPONDENT)
PAN No. AAGFS0160F		

**Assessee by : Sh. G. S. Girewal, Adv.
Revenue by : Sh. S. N. Meena, Sr. DR**

Date of Hearing: 07.02.2020	Date of Pronouncement: 21.02.2020
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ORDER

Per Dr. B.R.R. Kumar, Accountant Member:

The present appeal has been filed by the assessee against the order of Id. CIT(A)-20, New Delhi dated 27.09.2019.

2. Following grounds have been raised by the assessee:

"1. That on the facts and circumstances of the case and in law, the assessing officer erred in assessing total income of the appellant at INR. 1,18,11,510 as against the returned income of INR. 98,55,180 as declared by the appellant.

2. That Ld CIT (A) erred on facts and in law in disallowing interest expenditure amounting to INR. 19,56,328 under the provisions of section 14A of the Act.

2.1. THAT Ld CIT (A) erred on facts and in law in disallowing INR. 19,56,328 under section 14A of the Act, without considering submissions of the appellant; without distinguishing a plethora of case

law on the subject submitted by the appellant; and without recording his satisfaction as to invocation of provisions of section 14A of the Act.

2.2. That Ld CIT(A) has not appreciated that the investments in mutual funds was made from retained surplus / earning from preceding years. The amount of depreciation of proceeding years have been grossly ignored in calculating the cash surplus available with the firm for meeting the working capital requirement.

3. That Ld CIT (A) failed to appreciate that interest on partner's capital is not expenditure refer in Sec 14A, it is a specific statutory allowance for a partnership firm. Further, the said interest on capital is taxed in hands of individual partners and disallowance would lead to double taxation in hands of partner as well as firm.

4. That, without prejudice, the assessing officer erred on facts and in law in making disallowance of INR. 19,56,328 under the provisions of section 14A of the Act, without appreciating that, during the period relevant to assessment year 2016-17, total exempt income earned by the appellant was only INR. 60,706.

5. The above grounds of appeal are in the alternative and without prejudice to one another."

3. The relevant factors which are undisputed by both the parties as required for adjudication of the case are as under:

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|--|-------------------------|
| A. Dividend received by the assessee | - Rs.60,706/-. |
| B. Amount disallowed by the revenue | - Rs.19.56 lacs |
| C. Expenditure disallowed by the assessee | - Nil |
| D. Own funds of the assessee (as per cash profits) | - Rs.1.22Cr. to 1.32Cr. |
| E. Funds invested | - Rs.1.75 crores |
| F. Whether any satisfaction as per provisions of Section 14A(2) recorded by the AO | - No |

4. Since no expenditure has been disallowed by the assessee in relation to the income not included in total income, since the assessee has sufficient own funds which were utilized for investments & paid no interest on the funds invested and since the Assessing Officer has not expressed any dissatisfaction about the nature of expenditure claimed (in the instant case Nil), keeping in view the provisions of Section 14A, judgments of Hon'ble Supreme Court in the case of CIT Vs Reliance Industries Ltd. (CA No. 10 of 2019), Cheminvest Ltd. Vs CIT (SC), H.T. Media Vs PCIT ITA 548/2015 (Del. HC), the addition made by the Assessing Officer is hereby restricted to Rs.60.706/-.

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

Order Pronounced in the Open Court on 21/02/2020.

Sd/-

(Sushma Chowla)
VICE PRESIDENT

Sd/-

(Dr. B.R.R. Kumar)
ACCOUNTANT MEMBER

Dated: 21/02/2020

Subodh

Copy forwarded to:

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

ASSISTANT REGISTRAR