

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES "E" : DELHI
BEFORE SHRI BHAVNESH SAINI, JUDICIAL MEMBER
AND
SHRI O.P. KANT, ACCOUNTANT MEMBER
ITA.No.5346/Del./2017
Assessment Year 2014-2015

The ACIT, Circle 19(1), Room No. 199C, 1 st Floor, C.R. Building, I.P. Estate, New Delhi - 110 002.	vs.	M/s. Oscar Investment Ltd., 1, Rajesh Pilot Lane, New Delhi - 110 011. PAN AAACO1722C
(Appellant)		(Respondent)

For Revenue :	Ms. Rakhi Vimal, Sr. D.R.
For Assessee:	Shri Tarandeep Singh, C.A.

Date of Hearing :	14.07.2020
Date of Pronouncement :	15.07.2020

ORDER

PER BHAVNESH SAINI, J.M.

This appeal by Revenue has been directed against the Order of the Ld. CIT(A)-7, New Delhi, Dated 12.06.2017, for the A.Y. 2014-2015, challenging the deletion of disallowance of Rs.4,34,68,736/- made by A.O. under section 14A read with Rule 8D of I.T. Act, 1961.

2. We have heard the Learned Representatives of both the parties through video conferencing and perused the Orders of the authorities below.

3. During the year under consideration assessee company is engaged in the business of investment/dealing in shares and securities and financing activities. On verification it was found that assessee company has made huge investment relating to exempt income and it is also found that during the year under consideration, assessee company has not received any dividend income out of the same. The A.O. however, was of the view that there are several judicial precedents that irrespective whether income has been earned or not during the year from such investments, expenditure relating to such exempt income / investment should be disallowed under the provisions of Section 14A of the I.T. Act. The A.O. after recording explanation of assessee and several case Laws made the disallowance under section 14A read with Rule 8D of the impugned amount.

3. The assessee challenged the addition before the Ld. CIT(A). The assessee apart from challenging the addition on merit as well as submitted before the Ld. CIT(A) that since assessee company did not receive any dividend income during the year, no further disallowance under section 14A can be made in the case of assessee in the light of Judgment of jurisdictional Delhi High Court in cases of Commissioner of Income Tax-IV vs., Holcim India P. Ltd., ITA.No.486/2014 and ITA.No.299/2014 Dated 05.09.2014 and Cheminvest Ltd., vs., Commissioner of Income Tax-VI 2015-TIOL-2070-Delhi-High Court. The Ld. CIT(A) reproduced the written submissions of the assessee in the impugned order. The Ld. CIT(A) considering the above decisions of the Hon'ble Delhi High Court (supra) held that *"since the assessee has not received any dividend income in assessment year under appeal, therefore, no addition could be made of the impugned amount. The addition was accordingly deleted."*

4. After considering the rival submissions, we are of the view that no interference is called for in the mater. The

Ld. D.R. referred to Board Circular on the proposition that even under such circumstances when no dividend income has earned, addition could be made under section 14A because the A.O. is bound by the mandatory provisions of Rule 14A read with Rule 8D(2) of the I.T. Act, 1961. Since it is an admitted fact that no dividend income is earned by assessee in assessment year under appeal which fact is clearly mentioned in the Orders of the authorities below, therefore, it is an undisputed fact that assessee company has not received any dividend income in assessment year under appeal. This issue has also been decided by the Hon'ble Delhi High Court in case of Cheminvest Ltd., vs., Commissioner of Income Tax-VI (supra) that "*Section 14A will not apply if no exempt income is received or receivable during the relevant previous year.*" The Ld. CIT(A) correctly followed the decision of Hon'ble Delhi High Court in the case of Cheminvest Ltd., (supra) and hence, no interference is required into the matter. The Departmental Appeals fails and is accordingly dismissed.

5. In the result, appeal of the Revenue dismissed.

Order pronounced in the open Court.

Sd/-
(O. P. KANT)
ACCOUNTANT MEMBER

Sd/-
(BHAVNESH SAINI)
JUDICIAL MEMBER

Delhi, Dated 15th July, 2020

VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	CIT(A) concerned
4.	CIT concerned
5.	D.R. ITAT 'E' Bench, Delhi
6.	Guard File.

// BY Order //

Assistant Registrar : ITAT Delhi Benches :
Delhi.