

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

**Before Sh. Bhavnesh Saini, Judicial Member**

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

**(E-Court Module)**

**ITA No. 5452/Del/2017 : Asstt. Year : 2013-14**

Addl. CIT, Special Range-6, New Delhi	Vs	M/s MMTC Ltd., Core-1, Scope Complex, Lodhi Road, New Delhi-110003
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>
<b>PAN No. AAACM1433E</b>		

**Assessee by : Sh. Rohit Jain, Adv.**

**Revenue by : Ms. Pamita M. Biswas, CIT DR**

<b>Date of Hearing: 23.07.2020</b>	<b>Date of Pronouncement: 28.07.2020</b>
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**ORDER**

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

The present appeal has been filed by the revenue against the order of the Id. CIT(A)-6, Delhi dated 04.07.2017.

2. Following grounds have been raised by the revenue:

*"1. Whether on facts and in circumstances of the case, Id. CIT (A) is legally justified in reducing disallowance of Rs.10,08,27,210/- to Rs.1,75,000/- u/s 14A of the Income Tax Act, 1961 without considering legislative intend of introducing section 14A by the Finance Act 2001 as clarified by the CBDT Circular No. 5/2014 dated 10.02.2014?"*

*2. Whether on facts and in circumstances of the case, Id. CIT (A) is legally justified in reducing disallowance of Rs.10,08,27,210/- to Rs.1,75,000/- u/s 14A of the Income Tax Act, 1961 without considering a legal principle that allowability or disallowability of*

*expenditure under the Act is not conditional upon the earning of the income as upheld by Hon'ble Supreme Court in case of CIT Vs Rajendra Prasad Moody [1978] 115 ITR 519?*

*3. Whether on facts and in circumstances of the case, Id. CIT (A) is legally justified in reducing disallowance of Rs.10,08,27,210/- to Rs.1,75,000/- u/s 14A of the Income Tax Act, 1961 without considering ratio decidendi as upheld in cases of CIT Vs Walfort Share and Stock Brokers Pvt. Ltd. [2010] 326 ITR 1 (SC) and Maxopp Investment Vs CIT [2012] 347 ITR 272 (Del.) on application of provisions of Section 14A of the Act?"*

3. All the grounds relates to deletion of the disallowance made by the Assessing Officer u/s 14A of the Income Tax Act, 1961. The short issue involved in the case is that whether only those investments are to be considered for computing the average value of investments which yielded exempt income during the year.

4. Brief facts of the case are that the assessee company is a Public Sector Undertaking under the Companies Act, 1956 is a Government of India Public Sector Enterprises under Ministry of Commerce. During the year, the assessee has earned dividend income of Rs.11,45,10,723/- from two entities namely, dividend from foreign subsidiary -MTPL of Rs.10,17,58,599/- which has been duly offered to tax u/s 11BBD and Rs.1,27,52,124/- being the dividend received from liquid MF claimed as exempt. The AO made addition of Rs.10,10,27,210/- on the total dividend received taking into consideration the average value of the investments and indirect expenditure.

5. The issue of disallowance of expenses u/s 14A relating to non-dividend yielding investments has been adjudicated by the Special Bench of ITAT in the case of ACIT Vs Vreet Investments Pvt. Ltd. in ITA No. 502/Del/2012 for the assessment year 2008-09. Based on this judgment, the Id. CIT (A) has restricted the disallowance u/s 14A to 0.5% of the average value of investments yielding exempt income during the year. The disallowance thus computed stands at Rs.3,75,000/- out of which the assessee has already offered an amount of Rs.2,00,000/- as disallowable u/s 14A and the Id. CIT (A) has confirmed the addition Rs.1,75,000/-.

6. Since, the order of the Id. CIT (A) is in consonance with the order of the Special Bench of ITAT (supra), we hereby decline to interfere with the order of the Id. CIT (A) in deleting the disallowance made by the Assessing Officer.

7. In the result, the appeal of the revenue is dismissed.  
Order Pronounced in the Open Court on 28/07/2020.

Sd/-

**(Bhavnes Saini)**  
**Judicial Member**

Sd/-

**(Dr. B. R. R. Kumar)**  
**Accountant Member**

**Dated: 28/07/2020**

\*Subodh\*

Copy forwarded to:

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

**ASSISTANT REGISTRAR**