

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: 'B' NEW DELHI**

**BEFORE SHRI R. K. PANDA, ACCOUNTANT MEMBER
AND
MS SUCHITRA KAMBLE, JUDICIAL MEMBER**

ITA No. 37/DEL/2018 (A.Y 2013-14)

(THROUGH VIDEO CONFERENCING)

ACIT Room No. 389, C. R. Building, New Delhi (APPELLANT)	Vs	Clix Finance India Unlimited (Earlier known as GE Capital services Ltd), E-20, 1 st Floor, Hauz Khas, New Delhi AAACG0239L (RESPONDENT)
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Appellant by	Sh. Jagdish Singh, Sr. DR
Respondent by	Sh. Sachit Jolly, Adv

Date of Hearing	26.08.2020
Date of Pronouncement	27.08.2020

ORDER

PER SUCHITRA KAMBLE, JM

This appeal is filed by the Revenue against the order dated 30/10/2017 passed by CIT (A)-4, New Delhi for Assessment Year 2013-14.

2. The grounds of appeal are as under:-

1. *On the facts and in the circumstances of the case, the Ld.CIT(A) has erred in law in deleting the addition of Rs. 3,81,25,375/- made on account of disallowance u/s 14A read with Rule 8D of the Act by ignoring the fact that the assessee has incurred huge expenses in relation to the huge investments in shares and mutual funds."*

3. Clix Finance India Unlimited i.e. the assessee company was incorporated on 22/10/1993. The said company was earlier known as GE Capital Services India. The assessee is a Non Banking Financial Institutions (NBFC) registered with the Reserve Bank of India. It offers various products in commercial and retail lending. The assessee company filed its return of income electronically on 29/11/2013 declaring loss of Rs.79,42,07,926/- and claiming a refund Rs. 11,78,97,140/- on account of TDS credit. Subsequently, the assessee filed revised return of income on 30/3/2015 declaring loss of Rs. 77,79,51,423/- and claiming enhance TDS credit resulting in increasing refund to Rs. 12,52,85,552/-. The Assessing Officer completed assessment proceedings and passed final assessment order on 30/1/2017 u/s 143(3) read with Section 144C and assessed loss was determine at Rs. 71,33,63,400/- after making the following adjustments:-

Nature of Adjustment	Amount (Rs.)
Loss declared by the appellant in ROI	77,79,51,423
A. Addition on account of TPO	2,64,59,651
B. Disallowance u/s 14A read with Rule 8D	3,81,25,375
Assessed Loss (rounded off)	71,33,66,400

4. Being aggrieved by the assessment order, the assessee filed appeal before the CIT(A). The CIT(A) partly allowed the appeal of the assessee.

5. The Ld. DR submitted that the CIT(A) erred in deleting the addition of Rs. 3,81,25,375/- made on account of disallowance u/s 14A read with Rule 8D of the Income Tax Act and Income Tax Rules by ignoring the fact that the assessee has incurred huge expenses in relation to the huge investment in shares and mutual funds. The Ld. DR relied upon the assessment order and the decision of the Hon'ble Apex Court in case of Maxopp Investment Ltd. vs. CIT 402 ITR 640 (SC)

6. The Ld. AR relied upon the order of the CIT(A) and further submitted that no exempt income was earned during the present assessment year and no expenditure was incurred. The Ld. AR relied upon the decision of the Hon'ble Delhi High Court in case of CIT Vs. Holcim India Pvt. Ltd. 272 CTR 282 and Cheminvest Ltd. reported at 371 ITR 23.

7. We have heard both the parties and perused the material available on record. It is clear from the records that that there was no exempt income attributable in the hands of the assessee. Therefore, applying Section 14A read with Rule 8D is not appropriate on part of Assessing Officer. The CIT(A) rightly held that no expenditure can be disallowed against Nil exempt income and this view is also supported by the decision of the Jurisdictional High Court of Delhi in case of CIT Vs. Holcim India Pvt. Ltd. (supra) and Cheminvest Investment Ltd. (supra). The Hon'ble Apex Court has clearly set out in Maxopp Investment Ltd. (supra) that the expenditure should be actually incurred and there should be exempt income. But in assessee case there is a clear finding by Assessing Officer as well as by the CIT(A) that there is no exempt income. Therefore, the appeal of the Revenue is dismissed.

8. In result, the appeal of the Revenue is dismissed.

Order pronounced in the Open Court on this 27th Day of AUGUST, 2020.

Sd/-

(R. K. PANDA)
ACCOUNTANT MEMBER

Sd/-

(SUCHITRA KAMBLE)
JUDICIAL MEMBER

Dated: 27/08/2020
R. Naheed

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI