

**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**Hyderabad ' B ' Bench, Hyderabad**  
*(Through Video Conferencing)*

**Before Smt. P. Madhavi Devi, Judicial Member**  
**AND**  
**Shri D.S. Sunder Singh, Accountant Member**

ITA No. 891/Hyd/2019		
Assessment Year: 2013-14		
Dy. Commissioner of Income-tax, Circle – 2(1), Hyderabad	Vs.	Ilabs Hyderabad Technology centre Pvt. Ltd., Hyderabad.  PAN – AABCI 1166K
(Appellant)		(Respondent)
Revenue by:	Shri Abhaya Rout	
Assessee by:	None	
Date of hearing:	09/09/2020	
Date of pronouncement:	10/09/2020	

**ORDER**

**Per D.S. Sunder Singh, A.M.**

This is Revenue's appeal for the A.Y 2014-15 against the order of the CIT (A) - 2, Hyderabad, dated 28.03.2019. All the grounds raised by the revenue in this appeal are related to the disallowance made by the AO u/s 14A r.w. Rule 8D of the I.T. Rules, which was deleted by the Id. CIT(A).

2. During the assessment proceedings, the AO disallowed a sum of Rs. 2,38,22,132/- u/s 14A by observing that the assessee had invested in shares, the source of which was the HDFC OD account and accordingly, the AO calculated the direct expenditure of Rs. 1,10,61,505/- on the above investment and the indirect expenditure of Rs. 1,27,60,627/- and the total cumulative disallowance of Rs. 2,38,22,132/- was disallowed.

3. When the assessee went on appeal before the CIT(A), the CIT(A) observed that the assessee has not earned any dividend income during the year on such investments. He, therefore, relying on the decision of this Tribunal in the case of DCIT Vs. Maheswari Mega Ventures Ltd., in ITA No. 367/Hyd/2013, dated 03/02/2017, deleted the disallowance of Rs. 2,38,22,132/- made by the AO u/s 14A of the Act.

4. Aggrieved by the order of the CIT(A), the revenue is in appeal before us.

5. When the appeal was taken up for hearing none appeared on behalf of the respondent-assessee. therefore, We have heard the Id. DR and gone through the orders of the authorities below. In the instant case, though the assessee has made investments, the assessee did not earn any exempt income. The Id. CIT(A) deleted the disallowance by relying on the decision of this Tribunal in the case of Maheswari Mega Ventures Ltd. (supra), wherein the Tribunal has held as under:

*"22. Considered the rival submissions and perused the material facts on record. As per the P&L account and balance sheet submitted before us, the assessee had not earned any exempt income. The provisions of section 14A will be applied to find the expenditure relating to exempt income. In the absence of such exempt income, no expenditure can be disallowed in relation to exempt income. Accordingly, we uphold the decision of CIT(A) and dismiss the ground raised by the revenue."*

5.1 The coordinate bench of this Tribunal also in the case of Prathista Industries Ltd., Secunderabad Vs. The DCIT, Circ1e-16(3), Hyderabad in ITA No.1302/0Hyd/2015 dated 29.04.2016 for the A.Y. 2011-12, has held as under:

*"6. Having regard to the rival contentions and the material on record, we find that section 14A clearly*

*stipulates that the expenditure incurred for earning of any income which does not form part of the total income alone can be disallowed. In the case before us, when the assessee has not earned any exempt income, there can be no disallowance under section 14A of the Act. The Hon'ble Delhi High Court in the case of Cheminvest Ltd., reported in (2015) 378 ITR 33 (Del.) has held that section 14A will not apply where no exempt income is received or receivable during the relevant assessment year .. "*

Respectfully following the above decisions of Hon'ble ITAT in the said cases, we hold that since the appellant has not earned any exempt income during the relevant assessment year, the provisions of section 14A r.w. Rule 8D are not applicable in this case. Therefore, we uphold the order of the Id. CIT(A) as his decision is in consonance with the decisions of the ITAT and dismiss the grounds raised by the revenue on this issue.

6. In the result, appeal of the revenue is dismissed.

Order pronounced in the Open Court on 10<sup>th</sup> September, 2020.

<b>Sd/-</b> <b>(P. MADHAVI DEVI)</b> <b>JUDICIAL MEMBER</b>	<b>Sd/-</b> <b>(D.S.SUNDER SINGH)</b> <b>ACCOUNTANT MEMBER</b>
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Hyderabad, dated 10<sup>th</sup> September, 2020.

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Copy to:

- 1 DCIT – Circle – 2(1), Room No. 514, 5<sup>th</sup> Floor, Signature Towers, Kondapur, Hyderabad – 500 084
- 2 M/s Ilabs Hyderabad Technology Centre Pvt. Ltd., Plot No. 97, Road No. 3, Banjara Hills, Hyderabad – 500 034.
- 3 CIT (A)-2, Hyderabad
- 4 Pr. CIT – 2, Hyderabad
- 5 The DR, ITAT Hyderabad
- 6 Guard File

*By Order*