

**IN THE INCOME TAX APPELLATE TRIBUNAL**

**“A” BENCH : BANGALORE**

**BEFORE SHRI ARUN KUMAR GARODIA, ACCOUNTANT MEMBER**

**AND SHRI GEORGE GEORGE K, JUDICIAL MEMBER**

ITA No.2232/Bang/2019
Assessment year : 2015-16

The Deputy Commissioner of Income Tax, Circle – 2(1)(1), Bengaluru.	Vs.	M/s. Deccan Mining Syndicate Pvt. Ltd., S-7, 2 <sup>nd</sup> Floor, Esteem Arcade, No.26, Race Course Road, Bengaluru – 560 001. <b>PAN : AAACD 7081 R</b>
APPELLANT		RESPONDENT

Revenue by	:	Shri. Harinder Kumar, CIT(DR)(ITAT), Bengaluru
Assessee by	:	Smt. Suman Lunkar, CA

Date of hearing	:	17.09.2020
Date of Pronouncement	:	18.09.2020

**ORDER**

*Per George George K, Judicial Member*

This appeal at instance of the Revenue is directed against CIT(A)'s order dated 17.07.2019. The relevant Assessment Year is 2015 – 2016.

2. The solitary issue raised is whether the CIT(A) is justified in restricting the disallowance under section 14A of Income Tax Act, 1961, to the extent of exempted income earned.

3. Brief facts of the case are as follows:

AO in his order dated 06.12.2017 passed under section 143(3) of the IT Act has disallowed under section 14A r.w.r. 8D a sum of Rs.2,14,58,892/- over and above the disallowance made by the assessee in its return of income.

4. On further appeal, the CIT(A) restricted the disallowance to the extent of exempted income earned during the relevant Assessment Year. The finding of CIT(A) reads as follows:

*“6.2 However the appellant's alternate ground raised during the appellate proceedings has been adjudicated for AY 2013-14 in appellants own case vide my order dated 24.01.2019. The appellant without prejudice to the above has submitted that disallowance made should not exceed the exempt income having regard to the ratio of the decision of the Hon'ble Delhi High Court in the case of Joint Investments Ltd. reported in 372 ITR 694 wherein it was held that only the proportion of expenditure incurred by the assessee in relation to tax exempt income can be disallowed and this proportion cannot swallow the entire tax exempt income. The same ratio has also been followed by the Hon'ble Bangalore ITAT in the case of Tranquil Realty Private Limited wherein it was held that:*

*....the window for disallowance u/s.14A of the Act is only to the extent of a portion of the tax exempt income and could not swallow the entire amount. If the contention of the Revenue is accepted disallowance would be much more than the claim of exempt income. In view of the judgment of Hon'ble Delhi High Court mentioned above, this is incorrect. I therefore hold that maximum amount that could have been disallowed u/s.14A of the Act is Rs.67,074/- and nothing more. Assessee is given relief to this extent. Ordered accordingly.*

*Respectfully following the jurisdictional Tribunal's aforesaid decisions and also my own order for AY 2013-14 of appellant's case I hereby confirm the addition made by the Assessing Officer to the extent of exempt income and therefore the alternate ground is hereby treated as allowed and the other ground on the disallowance made u/s.14A r.w Rule 8D is not allowed.”*

5. The Revenue being aggrieved has filed this appeal before us. Learned DR by placing reliance on the judgment of Hon'ble Punjab and Haryana High Court in the case of Avon Cycles Ltd., Vs. CIT, 53 taxmann.com 297 (Punjab & Haryana), submitted that the disallowance under section 14A of the IT Act in the case considered by the Hon'ble Punjab and Haryana High Court was exceeding the exempted income earned. It was further submitted that the decision of the Hon'ble Punjab and Haryana High Court was confirmed by the judgment of Hon'ble Apex Court in the case of Maxopp Investment Ltd., Vs. CIT 91 taxmann.com 154 (SC).

6. Learned AR on the other hand submitted the issue in question is covered in favour of the assessee by the order of the Tribunal in assessee's own case for Assessment Year 2013-14 (ITA No.786 and 787/Bang/2019 order dated 26.07.2019).

7. We have heard the rival submissions and perused the material on record. On identical issue in assessee's own case for Assessment Year 2013-14 (supra), the Tribunal has decided the issue in favour of the assessee. Relevant finding of the Tribunal reads as follows:

*“5. We heard the parties on this issue and perused the record. Though the Ld D.R strongly supported the order of the assessing officer, yet we notice that the Ld CIT(A) has followed the decision rendered by the co-ordinate bench in the case of Tranquil Realty Private Limited (supra) and the decision rendered by Hon'ble Delhi High Court in the case of Joint Investments Ltd (supra) in order to hold that the disallowance cannot exceed the amount of exempted income. Accordingly, we do not find any infirmity in the order passed by Ld CIT(A) on this issue.”*

8. The judgment relied on by the learned DR is distinguishable on facts. The issue whether 14A disallowance could be restricted to the exempted income earned during the relevant Assessment Year was never in question in case laws relied on by the DR. The Tribunal order in assessee's own case for Assessment Year 2013-14 followed the judgment of Hon'ble Delhi High Court in the case of Joint Investment Ltd., reported in 372 ITR 694 and also the order of Co-ordinate Bench of the Tribunal in the case of Tranquil Realty Pvt. Ltd., in ITA No.185/Bang/2016 wherein it was clearly held disallowance under 14A cannot exceed exempted income. In light of the Tribunal order in assessee's own case for Assessment Year 2013-14, we follow the Co-ordinate Bench's decision and hold that CIT(A) is justified in restricting the disallowance under section 14A to the extent of exempted income. It is ordered accordingly.

9. In the result, the appeal filed by the Revenue is dismissed.

*Order pronounced in the open court on 18-09-2020.*

Sd/-

**(A. K. GARODIA)**  
**Accountant Member**

Sd/-

**(GEORGE GEORGE K)**  
**Judicial Member**

Bangalore.

Dated: 18<sup>th</sup> September, 2020.

/NS/\*

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|-------------------------|---------------|
| 1. Appellants           | 2. Respondent |
| 3. CIT                  | 4. CIT(A)     |
| 5. DR, ITAT, Bangalore. | 6. Guard file |

By order

Assistant Registrar,  
ITAT, Bangalore.