

**IN THE INCOME TAX APPELLATE TRIBUNAL (VIRTUAL COURT),
"B" BENCH, MUMBAI**

**BEFORE SHRI S.S. GODARA, JUDICIAL MEMBER
&
SHRI M.BALAGANESH, ACCOUNTANT MEMBER
ITA No. 6584/Mum/2018
(Assessment Year :2013-14)**

ACIT-8(1)(1) Room No.624, 6 th Floor Aaykar Bhawan, M.K.Road Mumbai-400 020	Vs.	Netizen Engineering Pvt.Ltd. Flat No.19& 20, 6 th Floor, 90, Manek Mahal, Veer Nariman Road, Churchgate Mumbai-400 020
PAN/GIR No.AABCR7570C		
(Appellant)	..	(Respondent)

Assessee by	None
Revenue by	Ms. Kavita P. Kaushik, Sr.DR
Date of Hearing	13/10/2020
Date of Pronouncement	14/10/2020

आदेश / ORDER

PER S.S.GODARA (J.M):

This Revenue's appeal for A.Y.2013-14 arises from Mumbai's order of Commissioner of Income Tax (Appeals)-14, in case No.CIT(A)-14/IT-45/16-17 dated 26/07/2018, in proceedings u/s.143(3) of the Income Tax Act, 1961 [hereinafter referred to as Act].

2. None appeared for the assessee. We have heard the Ms. Kavitha P. Koushik, Learned senior departmental representative appearing at the Revenue's behest. She vehemently contended that the CIT(A) has erred in law and facts in deleting section 14A r.w.Rule 8D disallowance of Rs.3,21,06,151/- made by the Assessing Officer in assessment order dated 17/03/2016. We notice

at the outset that this assessee has not derived any exempt income in the relevant previous year. Case law *CIT v. Holcim India (P.) Ltd. [2015] 57 taxmann.com 28* and *Pr.CIT vs IL & FS Energy Development Company Ltd. [2017] 84 taxmann.com 186*, *Redington (india) Ltd. v. Addl. CIT [2017] 392 ITR 633/77 taxmann.com 257 (Mad.)*, *CIT v. Lakhan I Marketing Inc. [2014] 49 taxmann.com 257/226 Taxman 45 (Mag.)*, *CIT v. Winsome Textile Industries Ltd. [2009] 319 ITR 204*, *CIT v. Shivam Motors (P.) Ltd. [2015] 230 Taxman 63/55 taxmann.com 262 (All.)* and *Quantum Advisors (P.) Ltd. Vs. DCIT [2016] 73 taxmann.com 233 (Mumbai-Trib.)* and *CIT v. Chetnad Logistics (P.) Ltd. [2017] 80 taxmann.com 221/248 Taxman 55 (Mad.)*, *CIT vs Chettinad Logistics (P.) Ltd. [2018] 95 taxmann.com 250 (SC)*] hold that the impugned disallowances provision does not come into play in absence of any exempt income derived in relevant previous year. There is no change stated at the Revenue's behest in the preceding legal position. We therefore affirm the CIT(A) action deleting the impugned disallowance for this precise reason.

3. This Revenue's appeal is dismissed.

Order pronounced in the open court on this 14/10 /2020

Sd/-
(M.BALAGANESH)
ACCOUNTANT MEMBER

Sd/-
(S.S.GODARA)
JUDICIAL MEMBER

Mumbai; Dated 14/10/2020
Thirumalesh, sr.ps

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. The CIT(A), Mumbai.
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai