

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई।  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
'C' BENCH: CHENNAI**

श्री वी. दुर्गा राव, न्यायिक सदस्य एवं  
श्री एस. जयरामन, लेखा सदस्य के समक्ष  
**BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER AND  
SHRI S. JAYARAMAN, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.142/Chny/2018  
निर्धारण वर्ष /Assessment Year: 2013-14

Shri Hari Poddar,  
32, Ottukkara Chinnaiah Street,  
Erode-638 008.

v. The Dy. Commissioner of  
Income Tax,  
Central Circle-3,  
Coimbatore.

**[PAN: AATPH 7611 P]**  
**(अपीलार्थी/Appellant)**

**(प्रत्यर्थी/Respondent)**

अपीलार्थी की ओर से/ Appellant by	:	Mr.K.Raghu, CA
प्रत्यर्थी की ओर से /Respondent by	:	Ms.R. Anita, JCIT
सुनवाई की तारीख/Date of Hearing	:	25.11.2020
घोषणा की तारीख/Dt. of Pronouncement	:	04.12.2020

**आदेश / ORDER**

**PER SHRI S. JAYARAMAN, ACCOUNTANT MEMBER:**

The assessee filed this appeal against the order of the Commissioner of Income Tax (Appeals)-18, Chennai, in ITA No.27/16-17 dated 14.11.2017 for the AY 2013-14.

2. Shri Hari Poddar, the assessee, Proprietor of Aditya Trading Co., derives income from house property, business and other sources. While making the assessment for the AY 2013-14, the AO found that the assessee received dividend of Rs.2,22,374/- but has not made any disallowance u/s.14A r.w.r.8D. Therefore, he made a disallowance of Rs.1,68,189/-

u/s.14A r.w.r.8D(ii) & (iii) and completed the assessment. Aggrieved, the assessee filed an appeal before the CIT(A) and the Ld.CIT(A) dismissed the appeal. Aggrieved against that order, the assessee filed this appeal.

3. The case was heard through video conferencing. The Ld.AR submitted that the assessee had an opening capital as on 01.04.2012 at Rs.7.13 Crs. The closing capital as on 31.03.2013 was at Rs.13.23 Crs. and admitted a total income of Rs.2.70 Crs. which included net interest income of Rs.17.51 lakhs. As against interest receipt of Rs.29.68 lakhs, the assessee paid interest of Rs.12.17 lakhs only. Therefore, there is no interest outgo. As against assessee's capital of Rs.13.23 Crs. The total investments in shares and mutual funds were at Rs.2.19 Crs. only which were fully sourced through internal accruals/shares transferred from Pratibha Poddar. The disallowance under sub-rule (iii) is not warranted as the investments were made through a member of stock exchange and the cost of brokerage is not claimed as an expenditure, but formed part of the value of investment. Therefore, the assessee has not incurred any expenditure in relation to the impugned income. The AO without recording due satisfaction as required u/s.14A as well as elucidated in the decision of the Hon'ble Apex Court in the case of Maxopp Investment Ltd. v. CIT reported in 402 ITR 640 and without any material, merely, disallowed Rs.1,68,189/- and hence pleaded to allow the appeal. Per contra, the Ld.DR submitted that since the assessee has not made any disallowance u/s.14A, the orders of the lower authorities are justified and thus supported them.

4. We heard the rival submissions and gone through the relevant materials. While invoking the provisions of section 14A r.w.r.8D, the AO is required to record his satisfaction having regard to the kind of assessee's financial affairs, how the assessee's claim is not correct and then proceed for appropriate apportionment. It is clear from the assessee's submissions, supra, and from the Assessment Order that there is no such satisfaction recorded. Therefore, the disallowance made by the AO is not justified and hence, we direct the AO to delete it. The corresponding grounds of the assessee's appeal are allowed.

5. In the result, the appeal filed by the assessee is allowed.

Order pronounced on the 04<sup>th</sup> day of December, 2020, in Chennai.

**Sd/-**

(वी. दुर्गा राव)

**(V. DURGA RAO)**

न्यायिक सदस्य/**JUDICIAL MEMBER**

**Sd/-**

(एस. जयरामन)

**(S. JAYARAMAN)**

लेखा सदस्य /**ACCOUNTANT MEMBER**

चेन्नई/Chennai,

दिनांक/Dated: 04<sup>th</sup> December, 2020.

TLN

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)
4. आयकर आयुक्त/CIT
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF