

IN THE INCOME-TAX APPELLATE TRIBUNAL "G" BENCH MUMBAI
BEFORE SHRI MAHAVIR SINGH, VICE-PRESIDENT AND
SHRI M. BALAGANESH, ACCOUNTANT MEMBER
ITA No.291/Mum/2019 (Assessment Year 2015-16)

DCIT- 3(3)(2), Room No.628, 6 th Floor, Aayakar Bhavan, M.K. Road, Mumbai-400020.	Vs.	M/s Synergy Applicances Pvt. Ltd., 171-C, Mittal Court, Nariman Point, Mumbai 400021. PAN: AAACR1840E
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Appellant

Respondent

Appellant by : Shri Anand Mohan (CIT-DR)

Revenue by : Shri Mayank Chauhan (AR)

Date of Hearing : 19.11.2020

Date of Pronouncement : 11.01.2021

ORDER

PER MAHAVIR SINGH, VICE-PRESIDENT:

1. This appeal by revenue is arising out of the order of Commissioner of Income Tax (Appeals)-8, Mumbai [for short 'the Id. CIT(A)] in Appeal No. CIT-8/IT-130/17-18 order dated 20.11.2018. Assessment was framed by DCIT-3(3)(2), Mumbai under section 143(3) of the Income Tax Act, 1961 (hereinafter referred to as the 'the Act') vide order dated 29.11.2017 for the Assessment Year 2015-16.
2. The only issue raised in this appeal of revenue as against the order of CIT(A) deleting the disallowance made by Assessing Officer by invoking the provisions of section 14A of the Act r.w.r. 8D of the Income Tax Rules, 1962. For this, the revenue has raised the following ground:

“Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) was right in holding that no disallowance u/s 14A is called for in respect of investments which do not earn exempt income which is contrary to CBDT Circular No.5/2014 which clarifies that the Rule 8D r.w.s. 14A of the Act provides for disallowance of the expenditure even where taxpayer in a particular year has not earned any exempt income?”

3. We have heard the rival contentions and gone through the facts and circumstances of the case.
4. Brief facts of the case are that the assessee-company is engaged in the business of investment in shares but during the relevant Financial Year 2014-15 relevant to this Assessment Year 2015-16 has not earned any exempt income. The Assessing Officer noted the submissions of the assessee in para-5.2 of the assessment order and the relevant portion reads as under:

“Here, ARs submission that the assessee has not derived any exempt dividend income during the year and hence no disallowance u/s.14A is called for is not acceptable. A perusal of the return of income/computation of income reveals that the assessee, itself, had disallowed an amount of Rs. 1,63,798/- as expenses pertaining to investment activity. Thus, the assessee’s submission is contradicting its own action of offering disallowance u/s.14A of the Act. Further, the disallowance offered by the assessee is found to be not as per Rule 8D, which is made applicable w.e.f A.Y. 2008-09.”

5. But, the AO invoking the provisions of section 14A of the Act r.w.r 8D of the Rules made disallowance of interest at Rs. 11,75,02,647/- apart from the suo-moto disallowance offered by assessee at Rs. 1,63,798/- thereby effective disallowance was made at Rs. 11,75,02,647/-. Aggrieved, the assessee preferred appeal before CIT(A) and CIT(A) deleted the

disallowance by following the decision of Hon'ble Supreme Court in the case of Maxopp Investment Ltd. Vs. CIT (2018) 402 ITR 640 (SC).

6. We noted that once there is no exempt income, the issue is covered in favour of the assessee by the decision of Hon'ble Supreme Court in the case of Maxopp Investment Ltd. (supra), wherein it is held that the disallowance under section 14A of the Act r.w.r 8D of the Rules cannot exceed the exempt income. Since, in the present case there is no exempt income, no disallowance is warranted. Hence, the order of CIT(A) is confirmed and appeal of the revenue is dismissed.
7. In the result, appeal of revenue is dismissed.

Order pronounced in the open court on 11th January 2021.

Sd/-

M. BALAGANESH
ACCOUNTANT MEMBER

Mumbai, Date: 11.01.2021

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Copy of the Order forwarded to :

1. Assessee
2. Respondent
3. The concerned CIT(A)
4. The concerned CIT
5. DR "G" Bench, ITAT, Mumbai
6. Guard File

Sd/-

MAHAVIR SINGH
VICE - PRESIDENT

BY ORDER,

Dy./Asst. Registrar
ITAT, Mumbai