

**IN THE INCOME TAX APPELLATE TRIBUNAL (VIRTUAL COURT),
'H' BENCH MUMBAI**

BEFORE SHRI M.BALAGANESH, AM

&

SHRI AMARJIT SINGH, JM

**ITA No.3980/Mum/2019
(Assessment Year :2014-15)**

ACIT-12(2)(2) Room No.262/145, 1 st Floor Aayakar Bhawan Churchgate, Mumbai-400020	Vs.	M/s. Hathway Cable & Datacom Ltd., Rahejas, 4 th Floor Corner of Main Avenue & V.P.Road, Santacruz (W) Mumbai – 400 054
PAN/GIR No. AAACC68148		
(Appellant)	..	(Respondent)

Revenue by	Shri Gurbinder Singh
Assessee by	Shri Nimesh Vora
Date of Hearing	02/02/2021
Date of Pronouncement	17/02/2021

आदेश / ORDER

PER M. BALAGANESH (A.M.):

This appeal in ITA No.3980/Mum/2019 for A.Y.2014-15 arises out of the order by the Id. Commissioner of Income Tax (Appeals)-20, Mumbai in appeal No.CIT(A)-20/IT-10575/2016-17 dated 29/03/2019 (Id. CIT(A) in short) against the order of assessment passed u/s.143(3) of the Income Tax Act, 1961 (hereinafter referred to as Act) dated 28/11/2016 by the Id. Asst. Commissioner of Income Tax-12(2)(2), Mumbai (hereinafter referred to as Id. AO).

2. The only issue to be decided in this appeal of the revenue is as to whether any disallowance u/s.14A of the Act r.w.Rule 8D of the Rules could be made when assessee has not received any exempt income during the year.

3. We have heard rival submissions and perused the materials available on record. We find that there is no dispute that assessee had not received any exempt income during the year under consideration. In view of the huge investments held by the assessee, the Id. AO directly proceeded to apply third limb of Rule 8D(2) of the Rules and made disallowance of indirect expenses u/s.14A to the tune of Rs. 1,69,35,716/- by considering 0.5% of average value of investments. We find the issue is now very well settled in the decision of the Hon'ble Supreme Court in the case of Maxopp Investments reported in 402 ITR 640 and other decisions wherein it has been categorically held that when there is no exempt income derived by the assessee during the year under consideration, the applicability of Section 14A of the Act does not come into operation. Respectfully following the same, we do not find any infirmity in the order of the Id. CIT(A) granting relief to the assessee. Accordingly, the grounds raised by the Revenue are dismissed.

4. In the result, appeal of the Revenue is dismissed.

Order pronounced on 17/02/2021 by way of proper mentioning in the notice board.

Sd/-
(AMARJIT SINGH)
JUDICIAL MEMBER

Sd/-
(M.BALAGANESH)
ACCOUNTANT MEMBER

Mumbai; Dated 17/02/2021

KARUNA, *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