

आयकर अपीलिय अधिकरण
मुंबई पीठ "एस एम सी" , मुंबई
IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "SMC", MUMBAI
श्री विकास अवस्थी, न्यायिक सदस्य के समक्ष
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER
आअसं. 4930/मुं/2018 (नि.व.2013-14)
ITA NO.4930/MUM/2018 (A.Y.2013-14)

DCIT, CC-8(4),
Room No. 676, 6th Floor,
Aayakar Bhavan, M.K. Road,
Mumbai-400020.

..... अपीलार्थी /Appellant

बनाम Vs.

Smt Vina Viren Ahuja
1, Neelkanth Tirth,
Road No. 6, Chembur,
Mumbai-400071.

PAN: **AAFPA4893E**

..... प्रतिवादी/Respondent

अपीलार्थी द्वारा/ Appellant by : Sh. Sanjay J. Sethi

प्रतिवादी द्वारा/Respondent by : None

सुनवाई की तिथि/ Date of hearing : 17/06/2021

घोषणा की तिथि/ Date of pronouncement : 01/07/2021

आदेश/ ORDER

PER VIKAS AWASTHY, J.M:

This appeal by the Revenue is directed against the order of Commissioner of Income Tax (Appeals)-50, Mumbai [hereinafter referred to as 'the CIT(A)'] dated 20.06.2018 for the Assessment Year (AY) 2013-14.

2. The brief facts of the case as emanating from records are: The assessee apart from the business of export of home furnishings and sale of handicrafts,

is engaged in trading of shares. In scrutiny assessment proceedings, the Assessing Officer (AO) inter alia made disallowance under section 14A read with Rule 8D of the Income Tax Act, 1961 [hereinafter referred to as "the Act" to the tune of Rs. 2,95,48,700/-. Aggrieved by the assessment order dated 08.03.2016, the assessee filed appeal before the CIT(A) assailing disallowance made under section 14A read with Rule 8D of the Act. The assessee earned dividend income of Rs. 32,98,024/- during the period relevant to the AY under appeal. Before the First Appellate Authority, the assessee *inter alia* raised a ground that disallowance under section 14A read with Rule 8D of the Act cannot exceed exempt income earned during the relevant period. To buttress his submission, the assessee relied on various decisions. The CIT(A) following the decision rendered in the case of Maxopp Investment Ltd. Vs. CIT, 91 taxmann.com 154 (SC) restricted the disallowance under section 14A to the extent of dividend income earned i.e. Rs. 32,98,024/-. Against the relief allowed by the CIT(A), the Revenue is in appeal before the Tribunal.

3. Shri Sanjay J. Sethi representing the Department vehemently defended the assessment order and prayed for reversing the findings of CIT(A) on this issue.

4. Submissions made by Id. Departmental Representative (DR) heard, orders of the authorities below examined. The solitary issued raised in appeal by the Revenue before the Tribunal is against restricting disallowance under section 14A read with Rule 8D to the extent exempt income earned by the assessee during the relevant period. It is no more *res-integra* that disallowance under section 14A cannot exceed tax free exempt income earned during the

relevant period. The Hon'ble Apex Court in the case of Pr.CIT vs. State Bank of Patiala reported as 259 Taxman 314 has approved the order of Hon'ble Punjab & Haryana High Court wherein it was held that disallowance under section 14A be restricted to amount of exempt income only. Thus, in view of the settled legal position, the impugned order warrants no interference. Ergo, the appeal of Revenue is dismissed being devoid of any merit.

Order pronounced in the open court on **Thursday**, the **1st** day of July, 2021.

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य / JUDICIAL MEMBER

मुंबई/Mumbai, दिनांक/Dated: 01/07/2021

SK, PS

प्रतिलिपि अग्रेषित **Copy of the Order forwarded to :**

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकर आयुक्त(अ)/ The CIT(A)-
4. आयकर आयुक्त CIT
5. विभागीय प्रतिनिधि, आय.अपी.अधि., मुंबई/DR,
ITAT, Mumbai
6. गार्ड फाइल/Guard file.

BY ORDER,

//True Copy//

(Dy./Asstt. Registrar)

ITAT, Mumbai