

**INCOME TAX APPELLATE TRIBUNAL**  
**[ DELHI BENCH "C": NEW DELHI ]**

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER**  
**A N D**  
**SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER**  
**(Through Video Conferencing)**

ITA. No. 5899/Del/2017  
(Assessment Year: 2014-15)

Ganesha Securities Pvt. Ltd., D-6/17, Vasant Vihar, New Delhi - 110 057. PAN: AAACG2464R	Vs.	ITO, Ward : 10 (1) New Delhi.
(Appellant)		(Respondent)

Assessee by :	Shri Sanjay Aggarwal, C. A.;
Department by:	Shri Najmi [CIT] - DR;
Date of Hearing :	04/08/2021
Date of pronouncement :	25/08/2021

**ORDER**

**PER PRASHANT MAHARISHI, A. M.**

1. This appeal is filed by the assessee against the order passed by the Id. Commissioner of Income Tax (Appeals)-35, New Delhi, dated 25.07.2017 wherein a disallowance of Rs.4,26,982/- under Section 14A of the Income Tax Act, 1961 (the Act) made by the Id. Assessing Officer vide order under Section 143(3) of the Act dated 24.10.2016 was upheld though the assessee has suo moto disallowed a sum of Rs.286/- and has received only exempt income of Rs 1745/-.
2. The assessee has raised the following grounds of appeal:-  
“ 1) That the order of the learned Commissioner of Income Tax (Appeals)-35, New Delhi (hereinafter referred to as CIT (A)) is wrong on facts and bad in law.  
  
2) That on the facts and in the circumstances of the case, the learned CIT (A) has erred in upholding the disallowance of Rs. 4,26,982/- under section 14A of the Income Tax Act, 1961 read with Rule 8D of the Income Tax Rules, 1962.  
  
3) That the Appellant craves leave to reserve to itself the right to add, alter and/or vary any ground(s) at or before the time of hearing. “

3. Brief facts of the case shows that assessee is a company, who filed its return of income on 29.09.2014 at a loss of Rs. 6,93,217/-. The case of the assessee was picked up for scrutiny. The Assessing Officer found that assessee has shown investment under the head non-current investment to the tune of Rs. 3.56 crores as on 31.03.2014 and closing balance as on 31.03.2013 was also the same. Assessee has disallowed a sum of Rs. 286/- under Section 14A of the Act. The Id. Assessing Officer asked the assessee why provisions of Section 14A read with Rule 8D should not be invoked as the shares fetched exempt income. The assessee submitted that assessee has suo moto disallowed a sum of Rs.286/- on the basis of 0.5% of the investment in respect of shares on which dividend income has been received of Rs 1745/-. Assessee stated that the disallowance has been worked out as per the decision of the Hon'ble Delhi high Court in the case of ACB India Ltd. Vs. ACIT (ITA. No. 615 of 2014 dated 24<sup>th</sup> march, 2015) wherein it has been held that for working out disallowance of administrative expenses of 0.5% as provided under Rule 8D(2)(iii) only investments from which exempt income has been earned during the year should be considered. Assessee also stated that it has not made any investment out of the interest bearing funds. The Assessing Officer rejected the contentions of the assessee and thereafter worked out a disallowance of Rs. 4,27,268/- out of which Rs. 1,78,297/- was on account of administrative expenditure and Rs. 2,49,371/- was in respect of in-direct interest expenditure. The assessment under Section 143(3) of the Act was passed on 24.10.2016. The assessee preferred an appeal before the Id. CIT (Appeals), who confirmed the above disallowance made by the Assessing Officer and, therefore, assessee is in appeal before us.
4. The Id. AR submitted that assessee has made the disallowance on the basis of the decision of the Hon'ble Delhi high Court in the case of ACB India Ltd. Vs. ACIT (supra) in which it is held that for the purpose of working out disallowance under Section 14A of the Act, only the investment from which exempt income is earned should be considered. He also referred to Page No. 14 of the Paper book to show that assessee has received total dividend income of only Rs. 1,745/- and the amount of investment in equity shares from which dividend has been received during the year is only Rs. 47,864/-. Therefore, the claim of the assessee was that it has correctly applied Rule 8D considering only the investment from which exempt dividend income has been received during the year. Even otherwise he submitted that exempt dividend income is only Rs. 1,745/-, therefore, the disallowance in any case cannot exceed Rs. 1,745/-. For this proposition he relied on the decision of the Hon'ble Delhi High Court in the case of Cheminvest Limited Vs. CIT in ITA. No. 749 of 2014 dated 2.09.2015.

5. The ld. DR relied upon the orders of the lower authorities.
6. We have carefully considered the rival contentions and perused the orders of the lower authorities. We find that the assessee has earned exempt income during the year of only Rs. 1,745/- and, therefore, as decided by the Hon'ble Delhi High Court in the case of Cheminvest Limited Vs. CIT (supra) the disallowance under Section 14A of the Act cannot exceed the exempt income. In view of this, we direct the ld. Assessing Officer to restrict the disallowance to Rs. 1,745/- only.
7. Accordingly, the appeal of the assessee is partly allowed.  
Order pronounced in the open court on : 25/08/2021.

**Sd/-  
( KUL BHARAT )  
JUDICIAL MEMBER**

**Sd/-  
(PRASHANT MAHARISHI)  
ACCOUNTANT MEMBER**

Dated : 25/08/2021.

\*MEHTA\*

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1. Appellant;
2. Respondent
3. CIT
4. CIT (Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR  
ITAT, New Delhi

Date of dictation	25.08.2021
Date on which the typed draft is placed before the dictating member	25.08.2021
Date on which the typed draft is placed before the other member	25.08.2021
Date on which the approved draft comes to the Sr. PS/ PS	25.08.2021
Date on which the fair order is placed before the dictating member for pronouncement	25.08.2021
Date on which the fair order comes back to the Sr. PS/ PS	25.08.2021

Date on which the final order is uploaded on the website of ITAT	25.08.2021
date on which the file goes to the Bench Clerk	25.08.2021
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the order	