

**IN THE INCOME TAX APPELLATE TRIBUNAL,
DELHI BENCH: 'G', NEW DELHI**

**BEFORE SHRI SAKTIJIT DEY, JUDICIAL MEMBER AND DR.
BRR KUMAR, ACCOUNTANT MEMBERR**

ITA No. 5370/Del/2018 Assessment Year: 2012-13
ITA No. 5371/Del/2018 Assessment Year: 2014-15

Sacred Heart Investment Co. Pvt. Ltd. 414/1, 4 th Floor, DDA Commercial Complex, District Centre, Janak Puri, New Delhi. PIN: 1100 18	Vs.	ITO, Ward-22(1), New Delhi.
PAN :AAACS8982N		
(Appellant)		(Respondent)

Appellant by	Shri Manu K. Giri, Adv.
Respondent by	Shri Umesh Takyar, Sr. DR

Date of hearing	08.03.2022
Date of pronouncement	14.03.2022

ORDER

PER SAKTIJIT DEY: JUDICIAL MEMBER:

Captioned appeals by the same assessee, arise out of two separate orders of learned Commissioner of Income-Tax(Appeals)-8, New Delhi, pertaining to assessment years and 2013-14 and 2014-15.

2. The only common dispute arising in both these appeals relates to the issue of disallowance of expenditure under Section 14A of the Income-tax Act, 1961 read with Rule 8D.

3. Briefly the facts are, the assessee is a resident-company engaged in the business of trading and investment in shares, debenture etc. and technical, industrial and commercial activities. During the previous year relevant to the assessment years under dispute, assessee had earned certain exempt income by way of dividend. Suo motu assessee disallowed an amount of Rs.56,14,446 in assessment year 2013-14 and Rs.57,13,774 in assessment year 2014-15.

4. Subsequently, assessee filed a revised computation in course of assessment proceedings for assessment year 2013-14 recomputing the disallowance under Section 14A of the Act read with Rule 8D to the extent of Rs.47,26,590, the quantum of dividend income earned during the year. A similar revised claim was also made by assessee in assessment year 2014-15 by way of revised return of income filed in course of assessment proceedings. Assessing Officer, however, did not accept the revised claim of the assessee and computed disallowance as was originally made by the assessee.

5. When the dispute travelled before learned Commissioner (Appeals), he held that assessee's revised claim for assessment year 2013-14 could not have been accepted by Assessing Officer in view of the judgment of Hon'ble Supreme Court in case of Goetze India Ltd. vs. CIT (284 ITR 323) (SC).

6. In so far as assessment year 2014-15 is concerned, learned Commissioner (Appeals) expressed identical view by holding that the revised return of income was not filed within the permissible time limit. Thus, he upheld the disallowance computed by Assessing Officer in both the assessment years under dispute.

7. We have heard Shri Manu K. Giri, learned counsel appearing for the assessee and Shri Umesh Takiyar, learned Senior Departmental Representative. The material on record clearly reveals that the suo motu disallowance made by the assessee in the return of income filed for the impugned assessment years is in excess of the actual dividend income earned in the relevant assessment years. Therefore, in course of assessment proceedings, assessee revised the suo motu disallowance by restricting to the quantum of exempt income earned in the relevant assessment years. However, learned Assessing Officer and learned Commissioner (Appeals) have rejected assessee's claim on purely technical ground that the

revised claim made by the assessee otherwise than through valid revised return of income is not acceptable. In our view, the aforesaid reasoning of learned Commissioner (Appeals) is unacceptable. Now, it is fairly well settled that the ratio laid down by the Hon'ble Apex Court in Goetze India Ltd. (supra), applicable, in so far as, it relates to proceedings before the Assessing Officer and not to the appellate authority. Therefore, there was no restriction on learned Commissioner (Appeals) to consider assessee's revised claim. Be that as it may, now, it is fairly well settled that disallowance under Section 14A of the Act read with Rule 8D cannot exceed the quantum of exempt income earned during the year. In this context, we may refer to the following decisions of the Hon'ble jurisdictional High Court:

- i) Joint Investments Pvt. Ltd. Vs. CIT (ITA No. 117/2015 – Delhi High Court);
- ii) CIT-IV Vs. Holcim India Pvt. Ltd. (ITA No. 486/2014 & 289/2014 – Delhi High Court ; &
- iii) M/s. Cheminvest Limited Vs. CIT –VI – ITA No. 749/2014 – Delhi High Court.

8. There is no dispute to the fact that in the revised claim/computation furnished in course of assessment proceedings, the assessee has restricted the disallowance under Section 14 of the Act read with Rule 8D to the quantum of exempt income earned in

the relevant assessment years. Therefore, applying the ratio laid down in the judicial precedents, referred to above, we direct Assessing Officer to restrict the disallowance under Section 14A of the Act read with Rule 8D to the quantum of exempt income earned by the assessee in the relevant assessment years under dispute. Grounds are allowed.

10. In the result, the appeals are allowed.

Order pronounced in the open court on 14th March, 2022

**Sd/-
(DR. BRR KUMAR)
ACCOUNTANT MEMBER**

**Sd/-
(SAKTIJIT DEY)
JUDICIAL MEMBER**

Dated: 14th March, 2022.

Mohan Lal

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi

Sl. No.	Particulars	Date
1.	Date of dictation (Order drafted through Dragon software):	08.03.2022
2.	Date on which the draft of order is placed before the Dictating Member:	
3.	Date on which the draft of order is placed before the other Member:	08.03.2022
4.	Date on which the approved draft of order comes to the Sr. PS/PS:	08.03.2022
5.	Date of which the fair order is placed before the Dictating Member for pronouncement:	
6.	Date on which the final order received after having been signed/pronounced by the Members:	
7.	Date on which the final order is uploaded on the website of ITAT:	
8.	Date on which the file goes to the Bench Clerk	14.03.2022
9.	Date on which files goes to the Head Clerk:	
10.	Date on which file goes to the Assistant Registrar for signature on the order:	
11.	Date of dispatch of order:	