

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

**BEFORE SH. ANIL CHATURVEDI, ACCOUNTANT MEMBER
AND SH. YOGESH KUMAR US, JUDICIAL MEMBER**

ITA No. 4834/Del/2017
(for Assessment Year : 2012-13)

ACIT, Special Range – 9, New Delhi PAN No. AAAC T 2717 J (APPELLANT)	Vs.	Tulip Telecom Ltd. C-160, Okhla Industrial Area, Phase-I, New Delhi-110 029 (RESPONDENT)
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Assessee by	--None--
Revenue by	Shri H. K. Chaudhary, CIT(DR)

Date of hearing:	11.05.2022
Date of Pronouncement:	11.05.2022

ORDER

PER ANIL CHATURVEDI, AM :

This appeal filed by the Revenue is directed against the order dated 11.01.2017 of the Commissioner of Income Tax (Appeals)-13, New Delhi relating to Assessment Year 2012-13.

2. Brief facts of the case as culled out from the material on record are as under:-

3. Assessee is a company stated to be engaged in the business of trading in Computer Hardware and Networking Equipment and

other services. Assessee electronically filed its return of income for A.Y. 2012-13 on 30.09.2012 declaring total income at Rs.2,62,58,156/-. The case was selected for scrutiny and thereafter assessment was framed u/s 143(3) of the Act vide order dated 27.03.2015 and the total income was determined at Rs.4,18,55,01,766/-.

4. Aggrieved by the order of AO, assessee carried the matter before CIT(A) who vide order dated 11.01.2017 in Appeal No.TR 101/16-17 granted substantial relief to the assessee. Aggrieved by the order of CIT(A), Revenue is now in appeal and has raised the following grounds:

“That the Ld. CIT(A) has erred on facts and law in ignoring the legislative intention brought forward by circular no.5/2014 that the disallowance u/s 14A are allowed even if no exempt income is earned.”

5. On the date of hearing none appeared on behalf of the assessee though the case file reveals that the notice of hearing was sent to the assessee. Since the issue appears to be a covered and settled issue, we proceed to dispose of the appeals *ex parte qua* the assessee and after hearing the Learned DR.

6. During the course of assessment proceedings, AO noticed that assessee had made investment to the tune of Rs.679,48,14,376/- in the equity shares of its subsidiaries companies. The assessee was therefore asked to show-cause as to why disallowance u/s 14A of the Act not be made. Assessee *inter alia* submitted that it had not claimed any exempt income and

therefore disallowance u/s 14A of the Act was not warranted. The submissions of the assessee was not found acceptable to AO. AO thereafter by following the methodology prescribed under Rule 8D worked out the disallowance u/s 14A r.w.r 8D of the Income Tax Rules at Rs.24,69,07,029/-. Aggrieved by the order of AO, assessee carried the matter before CIT(A). CIT(A) deleted the disallowance made by AO. Aggrieved by the order of CIT(A), Revenue is now before us.

7. Before us, Learned DR supported the order of AO.

8. We have heard the Learned DR and perused the material on record. The issue in the present ground is with respect to the disallowance u/s 14A r.w Rule 8D of the Rules. We find that CIT(A) while deleting the addition has given a finding that no dividend income, which is exempt from tax, was received by assessee during the year. He thereafter following the decision of Hon'ble Delhi High Court in the case of **Joint Investment Pvt. Ltd. vs. CIT 372 ITR 694** and **CIT vs. Holcim India Pvt. Ltd. 272 ITR 386 (Delhi)**, held that Section 14A of the Act cannot be invoked where no dividend income has been received by the assessee. Before us, no fallacy in the findings of CIT(A) has been pointed out by Revenue nor Revenue has placed any contrary binding decision in its support. In such a situation, we find no reason to interfere with the order of CIT(A). **Thus the ground of Revenue is dismissed.**

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

Order pronounced in the open court on 11.05.2022

**Sd/-
(YOGESH KUMAR US)
JUDICIAL MEMBER**

**Sd/-
(ANIL CHATURVEDI)
ACCOUNTANT MEMBER**

Date:- 11.05.2022
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Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI