

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "C": NEW DELHI****BEFORE NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER
AND
DR. BRR KUMAR, ACCOUNTANT MEMBER****ITA No. 469 /DEL/2018
[Asstt. Year: 2012-13]**Haldia Coke and Chemicals
Pvt. Ltd., Chennai,
6th Floor, Mookambika
Complex, Lady Desika Road,
mylapore,
Chennai.
PAN- AABCH5389PVs Addl. CIT, Range-11,
New Delhi.**APPELLANT****RESPONDENT****Appellant by
Respondent by****None
Shri Ravi Kant Choudhary
Ld. Sr. DR****Date of hearing
Date of pronouncement****31.08.2022
31.08.2022****ORDER****PER N.K. CHOUDHRY, JM:**

This appeal has been preferred by the Assessee/Appellant herein against the order dated 05.10.2017, impugned herein, passed by the learned Commissioner of Income-tax (Appeals)-35, New Delhi (in short "learned Commissioner") under Section 250(6) of the Income-tax Act, 1961 (in short 'the Act'), for the assessment year 2012-13.

2. Brief facts relevant for adjudication of the instant appeal are that the Appellant declared its income to the tune of Rs.95,27,080/- by filing its belated return of income on dated 19.06.2013, which was selected for scrutiny. On perusal of P & L account and balance sheet, it was observed by the AO that the Assessee has earned dividend income of Rs.1,34,414/- and made huge investments for the purpose of earning dividend income/income which is exempt and not chargeable to tax under the Act.

2.1 On being asked by the AO, as to why the expenditure in relation to the earning/intended earning of exempted income be not disallowed as provided u/s. 14A of the Act by applying Rule 8D duly notified for the purpose, the Assessee replied that it has suo moto disallowed Rs.48,98,105/- u/s. 14A of the Act.

2.2 The AO after considering the contention of the Assessee and the calculation of the disallowance made u/s 14A read with Rule 8D by the Assessee, found the same to be correct. However, added the said disallowance of Rs.48.98.105/- in the income of the Assessee. The Assessing Officer also made other additions which are not subject matter before us.

3. The Assessee being aggrieved with the additions including in hand made by the AO, challenged before the Id. Commissioner, who

vide impugned order restricted the said disallowance of Rs. 48,98,105/- to the tune of Rs.13,31,414/- on the ground that in the relevant year the Appellant claimed dividend income of Rs.13,31,414/- as exempt income, however, had not made any disallowance on account of expenditure attributable to the earning of the said exempt income. The Id. Commissioner while upholding the addition to the tune of Rs.13,31,414/- also relied upon various judgments including in the case of Joint Investments Pvt. Ltd. vs. CIT, 372 ITR 694(Delhi) wherein the Hon'ble Delhi High Court held that the disallowance made u/s. 14A of the Act cannot exceed exempt income.

4. The Assessee being aggrieved with the partly affirmation of the addition u/s. 14A of the Act, which was made by the AO, has preferred the instant appeal. It is a fact that the Assessing Officer while considering the contention and calculation of disallowance u/s 14A read with Rule 8D made by the Appellant, found the same to be correct and has not recorded any reason/dis-satisfaction qua calculation of disallowance made by the Appellant, as to why he was not satisfied with the appellant's claim. It is also a fact the Assessee has received the entire divided income of Rs. 13,31,414/- from mutual funds credited under '**Electronic Clearance Scheme**' and no fresh investment was made during the year under consideration

4.1 Hence, considering the peculiar facts and circumstances as referred to above, in totality, we are unable to uphold the affirmation of the disallowance/addition to the tune of Rs. 13,31,414/- made u/s 14A of the Act. Consequently, we delete the same.

5. In the result, the appeal filed by the Assessee stands allowed.

Order pronounced in the open court on 31/08/2022

Sd/-

(DR. BRR KUMAR)
ACCOUNTANT MEMBER
MP

Sd/-

(N.K. CHOUDHRY)
JUDICIAL MEMBER