

IN THE INCOME TAX APPELLATE TRIBUNAL

(DELHI BENCH 'A' : NEW DELHI)

**BEFORE SH. PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER
AND
SH. ANUBHAV SHARMA, JUDICIAL MEMBER**

ITA No.36/Del/2022
(Assessment Year : 2014-15)

ACIT, CC-26, New Delhi	Vs.	Alchemist Limited 23, 3 rd Floor, ARA Centre, Jhandewalan Ext., New Delhi-110055 PAN : AABCT1238R
Appellant		Respondent

Revenue by	Sh. Praveen Sidharth, CIT DR
Assessee by	None

Date of hearing:	03.01.2023
Date of Pronouncement:	03.01.2023

ORDER

Per Anubhav Sharma, JM :

The appeal has been filed by the Revenue against order dated 05.11.2021 in Appeal No. 457/19-20 assessment year 2014-15 passed by Commissioner of Income Tax (appeals)-31, New Delhi (hereinafter referred to as the First Appellate Authority or in short 'Ld. F.A.A.') in regard to the appeal before it arising out of assessment order dated 07/02/2019 u/s 153A/143(3) of the Income Tax Act, 1961 passed by ACIT, Central Circle-20, New Delhi (hereinafter referred to as the Assessing Officer or 'AO').

2. Heard and perused the record. Non-appeared for the assessee in spite of notices being issued for today's hearing. Ld DR was heard who heavily relied findings of Ld. A.O.

3. The short issue involved is summed up in the ground raised before the Tribunal as follows :-

"1. On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in restricting the disallowance of Rs. 5,51,55,646/- under section 14A r.w.r. 8D to the extent of exempt income earned of Rs. 20,703/- during the year without appreciating facts that the provisions of section 14A nowhere prescribed such restriction.

2. The appellant craves, leave or reserving the right to amend modify, alter, add or forego any ground(s) of appeal at any time before or during the hearing of this appeal."

3. It can be observed that Ld. CIT(A) in para 5.4 of its impugned order has decided the issue with following findings :-

*"5.4 Vide **Ground no. 7** disallowance of Rs.5,51,55,646/- u/s 14A has been challenged. In this regard, it is noted that the appellant had earned dividend income of Rs. 20,703/- declaring it as exempt income. The AO made an disallowance of Rs.5,51,55,646/- as per Rule 8D of the Income Tax Rules. In this regard, even though the appellant has not been to demonstrate as to why such disallowance was not warranted, it has been held by the jurisdictional High Court in the case of PCIT Vs Caraf Builders and Constructions Pvt Ltd (2019) 101 taxmann.com 167 (Del), that the disallowance u/s 14A r.w. Rule 8D cannot exceed the exempt income earned during the year. Accordingly, the disallowance u/s 14A is restricted to the exempt income of Rs. 20,703/- earned during the year. **Ground no. 7** is partly allowed."*

4. After taking into consideration the aforesaid observations, there is no substances in the contention of ld. DR as Ld. CIT(A) has only followed the principles of law in favour of assessee relying judgment of Jurisdictional High Court in *PCIT vs. Caraf Builders and Constructions Pvt. Ltd. (2019) 101 taxmann.com 167 (Del.)*, in which Hon'ble Delhi High Court has also

considered the judgment of Hon'ble Supreme Court of India in *Maxopp Investments Ltd. vs. CIT (2018) 402 ITR 640(SC)*.

5. In the light of aforesaid there is no substances in the ground raised.

The appeal of the revenue is dismissed.

Order pronounced in the open court on 3rd January, 2023.

Sd/-

**(PRADIP KUMAR KEDIA)
ACCOUNTANT MEMBER**

Sd/-

**(ANUBHAV SHARMA)
JUDICIAL MEMBER**

Date:- 03.01.2023

Binita, SR.P.S

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI