

| आयकर अपीलीय अधिकरण न्यायपीठ, कोलकाता |
IN THE INCOME TAX APPELLATE TRIBUNAL
"C" BENCH, KOLKATA

BEFORE SHRI RAJPAL YADAV, HON'BLE VICE PRESIDENT
&
SHRI RAJESH KUMAR, HON'BLE ACCOUNTANT MEMBER

I.T.A. No. 699/Kol/2022
Assessment Year: 2013-14

Ma Kalyaneshwari Holdings Pvt. Ltd. (Earlier known as Snowtex Investment Ltd.) 9, A.J.C. Bose Road 4 th Floor, Ideal Centre Kolkata - 700017 [PAN : AABCB0144Q]	Vs	Deputy Commissioner of Income Tax - Central Circle-3(2), Kolkata
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अपीलार्थी/ (Appellant)	प्रत्यर्थी/ (Respondent)
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Assessee by :	Shri Ravi Tulsiyan, FCA
Revenue by :	Shri Vijay Kumar, Addl. CIT

सुनवाई की तारीख/Date of Hearing : 21/02/2023
घोषणा की तारीख /Date of Pronouncement: 20/03/2023

आदेश/ORDER

PER RAJESH KUMAR, ACCOUNTANT MEMBER :

This is the appeal preferred by the revenue against the order of the National Faceless Appeal Centre, Delhi (hereinafter referred to as the Ld. CIT(A)"), passed u/s 250 of the Income-tax Act, 1961 (hereinafter the 'Act'), dated 26/10/2022 for the Assessment Year 2013-14.

2. The sole issue which arises for our adjudication relates to the confirmation of disallowance of expense u/s 14A r.w.r. 8D at Rs.29,56,766/- being exempt income earned during the year.

3. The Id. Counsel for the assessee submitted that the Id. Assessing Officer has wrongly computed the amount of disallowance of expenses of Rs. 29,56,766/- relating to dividend income earned during the year whereas, the assessee has in fact earned only Rs.8,669/- as dividend income. In the written submissions filed before us, the computation of dividend income earned during the year has been placed which is extracted for ready reference:-

Sl. No.	Scrip Name	Dividend	Opening balance	Closing balance
1	HDFC AMC (Real Estate Portfolio)	Rs.8,669/-	Rs.38,13,779/-	Rs.28,39,909/-

This computation has not been controverted by the Id. D/R. The Id. Counsel for the assessee has also filed a paper book containing the audited accounts, RBI Certificate of Registration and relevant extracts of memorandum of association to prove the identity of the assessee company, the investment made and the exempt income so earned during the year.

3.1. The Id. D/R, though not leaving his grounds, could not controvert the factual position.

4. Heard rival contentions. We find that the assessee has earned only Rs.8,669/- as dividend income during the year. Recently, the Hon'ble Delhi High Court *PCIT Vs. Era Infrastructure (India) Ltd. (ITA 204/2022) judgment dt. 20/07/2022*, has held that the amendment made in Section 14A of the Act by Finance Act, 2022, will be applicable prospectively and also held that disallowance u/s 14A of the Act should not exceed the exempt income earned by the assessee during the year. Therefore, since the assessee has earned exempt income of Rs.8,669/- during the year, the disallowance u/s 14A of the Act, is restricted to the same and the remaining disallowance of Rs.29,48,097/- is hereby deleted.

5. In the result, appeal of the assessee is allowed.

Order pronounced in the Court on 20th March, 2023 at Kolkata.

Sd/-

(RAJPAL YADAV)
VICE-PRESIDENT

Sd/-

(RAJESH KUMAR)
ACCOUNTANT MEMBER

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. संबंधित आयकर आयुक्त / Concerned Pr. CIT
4. आयकर आयुक्त (अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि , आयकर अपीलीय अधिकरण, कोलकाता/DR,ITAT, Kolkata,
6. गार्ड फाईल /Guard file.

आदेशानुसार/ BY ORDER,
TRUE COPY

Assistant Registrar
आयकर अपीलीय अधिकरण
ITAT, Kolkata