

**IN THE INCOME TAX APPELLATE TRIBUNAL KOLKATA BENCH 'A', KOLKATA**

[Before Dr. Manish Borad, Accountant Member &  
Shri Sonjoy Sarma, Judicial Member]

**I.T.A. No. 434/Kol/2023**  
**Assessment Year : 2016-17**

Khimjee Group	Vs.	ACIT, Circle-40, Kolkata
PAN: AANFK 7268 H		
Appellant		Respondent

Date of Hearing	19.06.2023
Date of Pronouncement	11.07.2023
For the Assessee	Shri P.J. Bhide, FCA
For the Revenue	Shri Vijay Kumar, Addl. CIT, Sr. DR

**ORDER**

**Per Sonjoy Sarma, JM:**

The present appeal has been preferred by the assessee against the order dated 07.03.2023 of the National Faceless Appeal Centre [hereinafter referred to as 'CIT(A)'] passed u/s 250 of the Income Tax Act (hereinafter referred to as the 'Act'). The assessee has raised the following grounds of appeal:

*"1. That on the facts and in the circumstances of the case, the ld. CIT(Appeals) erred in holding that the Assessing Officer was justified in invoking the provisions of section 14A of the Income Tax Act, 1961 read with Rule 8D of the Income Tax Rules, 1962.*

*2. That on the facts and in the circumstances of the case, the ld. CIT(Appeals) erred in confirming that the disallowance/addition of Rs. 93,765/- made by the Assessing Officer after invoking the provisions of section 14A of the Income Tax Act, 1961 read with Rule 8D of the Income Tax Rules, 1962.*

*3. That the order passed by the ld. CIT(Appeals) on 07.03.2023 is bad in law.*

*4. That the appellant craves leave to submit further grounds and to amend, alter or otherwise modify the grounds already taken, if necessary before or at the time of hearing of the appeal."*

2. Brief facts of the case are that the assessee filed its return of income for the assessment year in question on 20.09.2016 by

declaring total income of Rs. 3,91,03,770/-. The case of the assessee was picked up for scrutiny assessment through CASS followed by notices u/s 143(2) and 142(1) of the Act. In response to notices, the ld. AR of the assessee has furnished reply from time to time before the ld. AO through e-portal. During the assessment proceedings, ld. AO noticed that the assessee had made investment in shares and mutual fund and earned dividend of Rs. 1,92,285/- and Rs. 3,38,056/- respectively which is totaling to Rs. 5,30,341/- and the assessee claimed it as exempted income which do not forming part of total income during financial year 2015-16 relevant to assessment year 2016-17. Therefore, the ld. AO by applying provision of section 14A of the Act r.w. Rule 8D disallowed a sum of Rs. 93,765/- in the hands of assessee.

3. Dissatisfied with the above order, assessee took up the matter before the ld. CIT(A). However, the appeal of the assessee was dismissed by ld. CIT(A) by observing as under:

*8.4. Therefore, the disallowance is made mainly related to the administrative expenditure but not interest expenditure incurred for the borrowings for making investments. Therefore, there is no merit in considering the written submissions received on such misplaced understanding. Further, I do not see factually any incorrectness in applying the Rule 8D(2)(ii) to determine the disallowance claimed in the profit & Loss Accounts as contemplated u/s 14A of the Act.*

*8.5. The disallowance of the expenditure by invoking the S.14A r.w. Rule 8D would not be hit by the decision of the Supreme Court in the case of Godrej & Boyce Manufacturing Co. Ltd. vs. DCIT [394 ITR 449] since the AO had verified the books and recorded his satisfaction in the assessment order. The judgment of the Supreme Court in the case of South Indian Bank Ltd. vs CIT [438 ITR 1] is also not applicable to the facts of the appellant's case since the addition is not on account of proportionate disallowance of interest expenditure incurred for the investments made to earn tax free income. Exactly the same is the ratio decidendi in the judgment of*

*Hon'ble Bombay High Court in the Case of HDFC Bank Ltd. vs DCIT [383 ITR 529]. The other case laws are not relevant to the facts of the case and issues involved are completely different from the issue of 14A. Therefore, the expenditure disallowance computed for the general and administrative expenditure incurred as provided in R.8D(2) (iii) with the application of the provisions of section 14A is justified in the present case of appellant. I do not see any misapplication of the provisions of section 14A by the AO in appellant's case. Therefore, the two effective grounds are dismissed.*

*9. In the result, the appeal filed by the appellant, M/s. Khimjee Group for the A.Y. 2016-17 is dismissed.”*

4. At the time of hearing, we have noticed that the assessee has raised two grounds of appeal. However, effective issue in this appeal for our consideration and adjudication is whether in the facts and circumstances of the case, the ld. CIT(A) is justified in confirmation of disallowance of administrative and general expenses attributable towards earning of exempt dividend income u/s 14A of the Act by applying formula as provided under Rule 8D of I.T. Rules, 1962. The ld. counsel for the assessee contended that the present facts and circumstances of the case, the ld. CIT(A) erred in holding that assessing officer was justified in invoking the provisions of section 14A of the Act read with Rule 8D of I.T. rules, 1962 by confirming the disallowance of Rs. 93,765/- made by the assessing officer in the hands of assessee. On the other hand, ld. DR relied and supported the order passed by the authorities below.

5. We after hearing the rival submission of the parties and going through the facts and circumstances of the case, we notice that in the instant case, assessee has earned dividend of Rs. 1,92,285/- and Rs. 3,38,056/- from shares & mutual funds respectively which is totaling to Rs. 5,30,341/- and assessee had claimed it as exempted income for the assessment year in question. However,

doing so the assessee did not offer any disallowance u/s 14A of the Act as expenses relating to exempted income and due to this, ld. AO after satisfaction of the facts of the case by applying Rule 8D disallowed a sum of Rs. 93,765/- in the hands of assessee and subsequently ld. CIT(A) by his order dated 07.03.2023 confirmed the addition made by the ld. AO. We further noticed that as the assessee did not offer any disallowance u/s 14A of the Act in relation to expenses relating to exempted income, therefore, the ld. AO by applying u/s 14A read with Rule 8D of the Act of disallowance of Rs. 93,765/- in the hands of assessee. We, therefore, after going through the facts of the case and examining the findings given by the ld. CIT(A), we have no cogent reason to interfere with the order passed by the ld. CIT(A) by which he confirmed the addition made by the ld. AO in accordance with Rule 8D(2)(iii) of the I.T. Rules, 1962 as it was computed for the general and administrative expenditure incurred as provided with application of provisions of section 14A of the Act. Therefore, after considering the facts of the case, the impugned order passed by the ld. CIT(A) is upheld. Accordingly grounds raised by the assessee are hereby dismissed.

6. In the result, the appeal of the assessee is dismissed.

Order pronounced in the open court on 11.07.2023.

Sd/-

Sd/-

(Manish Borad)  
Accountant Member

(Sonjoy Sarma)  
Judicial Member

Dated: 11.07.2023

*Biswajit*

Copy of the order forwarded to:

1. Appellant- Khimjee Group, 9, Rabindra Sarani, Kolkata-700073.
2. Respondent – ACIT, Circle-40, Kolkata.
3. Ld. CIT
4. Ld. CIT(A)
5. Ld. DR

True Copy

By Order

Assistant Registrar  
ITAT, Kolkata Benches, Kolkata