

आयकर अपीलीय अधिकरण, कोलकाता पीठ 'B', कोलकाता
IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH KOLKATA

**Before Shri Sanjay Garg, Judicial Member and
Shri Rakesh Mishra, Accountant Member**

**I.T.A. No.1268/Kol/2024
Assessment Year: 2015-16**

T. P. Roy Chowdhury & Company Pvt. Ltd. Appellant
53/B, 1st Floor, Mirza Ghalib Street,
Park Street, Kolkata-700016.
(PAN: AAAC9370R)

vs.

DCIT, Circle-7(1), Kolkata Respondent

Appearances by:

Shri Arvind Agarwal, Advocate appeared on behalf of the Appellant
Shri P. P. Barman, Sr. DR appeared on behalf of the Respondent

Date of concluding the hearing: 19.12.2024

Date of pronouncing the order: 19.12.2024

आदेश / ORDER

Per Sanjay Garg, Judicial Member :

The captioned appeal has been preferred by the assessee against the order dated 15.05.2024 of the Ld. Commissioner of Income Tax, (Appeal), Addl/JCIT(A)-12, Mumbai [hereinafter referred to as the "Ld. CIT(A)"] passed u/s. 250 of the Income-tax Act, 1961 (hereinafter referred to as the "Act") for AY 2015-16.

2. The assessee in this appeal has taken as many as 8 grounds of appeal. Vide ground nos. 1, 2 and 3, the assessee has agitated the confirmation of the addition of Rs.1,13,369/- being interest u/s. 201(1A) of the Act, which has been held by the lower authorities as not an allowable business expenditure.

3. The Ld. Counsel for the assessee has stated at Bar that he does not press the ground nos. 1 to 3. This has also been separately confirmed

vide letter dated 03.09.2024. In view of this, ground nos. 1 to 3 are dismissed being not pressed.

4. Vide ground nos. 4 to 8, the assessee has contested the action of the lower authorities in making/confirming the addition of Rs.10,19,593/- u/s. 14A read with Rule 8D of the Income Tax Rules, 1962 (hereinafter referred to as the "Income Tax Rules") on account of notional expenditure incurred by the assessee to earn tax exempt dividend income.

5. At the outset, Ld. Counsel of the assessee has submitted that the assessee did not use any borrowed fund to make the investment. That the assessee during the year has earned dividend income only of Rs.36,675/- only. The Ld. Counsel has submitted that no expenditure was incurred by the assessee for making the investments, therefore, no disallowance u/s. 14A of the Act was warranted.

6. Ld. DR on the other hand, had relied on the findings of the lower authorities.

7. We have considered the rival submissions and gone through the material available on records. The Hon'ble Delhi High Court in the case of *Cheminvest Ltd. Vs. CIT 378 ITR 33 (Del.)* has held that there being no exempt income earned by the assessee, no disallowance u/s. 14A to be made. The aforesaid proposition has been further confirmed by various Hon'ble High Courts and Tribunal viz., *CIT vs. M/s. Holcim India Pvt. Ltd. in ITA no. 486/2014 and ITA no. 299/2014; Judgment dt. 5-9-2014, CIT v. Shivam Motors (P.) Ltd. [2015] 230 Taxman 63 and CIT vs. Ashika Global Securities Ltd. (G.A. No. 2122 of 2014) dt. 11/06/2018*. Therefore, the disallowance u/s. 14A of the Act cannot exceed the exempt income earned by the assessee of Rs. 36,675/-. Considering the fact that no borrowed funds have been used by the assessee to earn the aforesaid tax exempt income, in our view, a certain percentage of the tax exempt income will be

justified in making the disallowance u/s. 14A read with Rule 8D (2) (iii) of the Income Tax Rules on account of administrative expenses. Therefore, disallowance u/s. 14A is restricted to 10% of the dividend income earned of Rs.36,675/- i.e. at Rs.3,667.50. Appeal of the assessee is treated as partly allowed.

8. In the result, the appeal of the assessee stands partly allowed.

Order is pronounced in the open court on 19.12.2024.

Sd/-

[Rakesh Mishra]
लेखा सदस्य/Accountant Member

Sd/-

[Sanjay Garg]
न्यायिक सदस्य/Judicial Member

Dated:19.12.2024.

JD Sr. P.S

Copy of the order forwarded to:

1. **Appellant – T. P. Roy Chowdhury & Company Pvt. Ltd.**
2. **Respondent – DCIT, Circle-7(1), Kolkata**
3. **CIT(A), Addl/JCIT(A)-2, Mumbai**
4. **Pr. CIT**
5. **CIT(DR),**

True Copy

By Order

Assistant Registrar, ITAT, Kolkata