

IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE BENCH "A", PUNE

BEFORE SHRI R. K. PANDA, VICE PRESIDENT  
AND  
SHRI VINAY BHAMORE, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.1910/PUN/2024  
निर्धारण वर्ष / Assessment Year: 2015-16

DCIT, Circle-7, Pune.	Vs.	John Deere India Private Limited, Tower-14, Magarpatta City, Cyber City, Hadapsar, I.E. SO, Pune- 411013. PAN : AAACJ4233B
Appellant		Respondent

Revenue by : Shri Ramnath P. Murkune  
Assessee by : Shri Nikhil S. Pathak

Date of hearing : 19.12.2024  
Date of pronouncement : 30.12.2024

**आदेश / ORDER**

**PER VINAY BHAMORE, JM:**

This appeal filed by the Revenue is directed against the order dated 18.07.2024 passed by Ld. CIT(A)-13, Pune ['CIT(A)'] for the assessment year 2015-16.

2. Although a number of grounds have been raised by the Revenue, however, these all relate to the order of Ld. CIT(A) in

deleting the addition of Rs.4,84,91,050/- made by the Assessing Officer u/s 14A of the IT Act.

3. Facts of the case in brief, are that the assessee is a company engaged in the business of manufacturing of tractors, agricultural equipments like harvesters, micro irrigation equipments and spare parts. It has also technology centre which is primarily involved into catering of information technology and engineering services to Deer Associates. It filed its return of income on 30.11.2015 declaring total income of Rs.591,28,97,560/-. The case was selected for scrutiny through CASS and accordingly statutory notices u/s 143(2) and 142(1) of the IT Act were issued and served on the assessee, in response to which the assessee filed the requisite details from time to time.

4. During the course of assessment proceedings, the Assessing Officer noted that the assessee has made investments in the subsidiary company, the income from which is exempt from tax. The assessee has *suo moto* disallowed an amount of Rs.25,000/- u/s 14A of the IT Act. However, the assessee has not submitted any working, basis and correctness of the disallowance made in accordance with section 14A read with rule 8D. The Assessing

Officer therefore, issued a show cause notice asking the assessee to explain as to why the disallowance u/s 14A read with rule 8D should not be made. Not being satisfied with the reply of the assessee, the Assessing Officer disallowed an amount of Rs.3,65,54,485/- by invoking the provisions of section 14A read with rule 8D.

5. Before Ld. CIT(A) it was argued that the assessee has not received any dividend income and therefore, no disallowance can be made in view of the decision of Hon'ble Supreme Court in the case of CIT vs. Chettinad Logistics Pvt. Ltd. reported in 95 taxmann.com 250 (SC) and the decision of the Hon'ble Delhi High Court in the case of McDonald's India Pvt. Ltd. reported in 101 taxmann.com 86 (Del). The various other decisions were also brought to the notice of Ld. CIT(A).

6. Based on the arguments to the proposition that when the investments were made out of assessee's own funds and no interest expenditure was incurred, therefore, there cannot be any disallowance u/s 14A of the Act advanced by the assessee, the CIT(A) deleted the addition by observing as under :-

*“FINDINGS:*

3.3 I have carefully considered the facts of the case and submission filed by the appellant. It is seen from the submission of the appellant that the appellant had made investment of Rs. 293.30 Crores in its 100% subsidiary i.e. JDFIPL and the investment was made out of its own funds available. The appellant claims that the alleged investment was made out of its reserves and surplus available during the year under consideration of Rs. 1,619.8 Crores and in support, copies of the financials have been submitted. Having gone through the above, it is imperative to say that the appellant company was having sufficient interest free own funds out of which the alleged investments were made. In this regard, reliance is placed in the judgement of the Hon'ble High Court of Bombay in the case of CIT Vs. Reliance Utilities & Power Ltd reported in 313 ITR 340(Bom) wherein, it has been held that if there are funds available both interest-free and overdraft and/or loans taken, then a presumption would arise that investments would be out of the interest-free fund generated or available with the company, if the interest-free funds were sufficient to meet the investments. The Appellant has made investments in its subsidiary JDFIPL, wherein, it was holding controlling stake and purpose of investment is not for earning any income out of such investments. Thus, I find merit in the claim of the appellant that it had not incurred any expenses in making the alleged investments.

Here, in the instant case, it is seen that the appellant had sufficient funds available in its accounts and the appellant has not earned any exempt income during the year under consideration. The appellant in this regard submits that during the year under consideration, no dividend was paid by the JDFIPL and hence, it has not earned any exempt income and as such the disallowance made u/s 14A of the Act is not warranted. The appellant further relied on the decision of the Hon'ble Apex Court in the case of CIT, Central Vs. Chettinad Logistics (P.) Ltd. reported in [2018] 95 Taxmann.com 250(SC), wherein, Hon'ble Court has dismissed the SLP filed by the Revenue and held that where no exempt income i.e., dividend, was earned in relevant assessment year by assessee, section 14A could not be invoked. Thus, respectfully relying on the decision of the Hon'ble Apex Court, I find no reason in sustaining the disallowance made u/s 14A r.w. Rule 8D of the IT Rules, 1962.

Without prejudice to the above, in the instant case, the appellant has claimed that it had not earned any exempt income from the investments made, therefore, it is incumbent on the AO to bring on record as to how the provisions of section 14A attracts in the case of the appellant. The AO has not brought on record any fact or material to show that any expenditure has been incurred on the activity which has resulted into non taxable income. In the case of Maxopp Investment Ltd reported in 347 ITR 272 (DELHI), Hon'ble Delhi HC

*has held that AO must first record his satisfaction that assessee's claim is incorrect that no expenditure was incurred on tax free income, then he should apply rule 8D to calculate the amount to be disallowed.*

*3.4 I also would like to mentioned here that the similar issue of disallowance u/s 14A of the Act has been decided in favour of the appellant by my predecessors in appellant's own case in AY 2012-13, AY 2014-15 and in AY 2016-17. The relevant paragraphs of the decision in AY 2016-17 are reproduced below as follows:*

*“As seen from records, the said investment in the equity shares of the subsidiary has been made in the earlier AY 2012-13 and no new investment has been made by the assessee company during the year under consideration. The AO has not rebutted the appellant's submission that the investment was out of appellant's own funds and there has been no interest expenditure for this investment as per decision of Bombay High Court in the case of HDFC Bank Ltd. 366 ITR 505. Secondly, the appellant has not earned any exempt income during the relevant financial year. It is also seen that the similar issue of disallowance u/s 14A of the Act has been decided in favour of the appellant by my predecessors in appellant's own case in AY 2012-13 and in AY 2014-15. The relevant paragraphs of the decision in AY 2014-15 are reproduced below as follows:*

*“QUOTE*

*11.3 I have carefully considered the submission of the appellant in light of the facts of the case and the judicial decisions relied upon by the appellant. The Ld. A.O. by applying Rule 8D, has worked out the disallowance u/s. 14A of the Income Tax Act, 1961 for Rs.1,48,77,912/- on the tax free investments made by the appellant in its subsidiary company- John Deere Financial India Pvt Ltd (JDFIPL) by way of equity share capital. Before me, the Ld. AR for the appellant has argued that during the year under consideration, there was no exempt income earned by the appellant and in view of the decision of Hon'ble Supreme Court in the case of CIT vs. Chettinad Logistics (P) Ltd. (supra), no disallowance u/s. 14A could be made. The Appellant has also submitted that the investments made by it were only out of its own funds and that the Appellant itself has made a disallowance of Rs 25,000 u/s 14A on its own. Since, no exempt income has been earned by the appellant, following Hon'ble Supreme Court's decision in the case of CIT vs. Chettinad Logistics (P) Ltd. (supra), no disallowance u/s 14A can made. This issue has also been decided by the Hon'ble Bombay High Court in the case of Pr.*

*CIT vs. M/s. Ballarpur Industries Ltd. (supra). Accordingly, I direct the A.O. to delete the addition of Rs. 148,77,912/- made on this account.*

*UNQUOTE”*

*Following the above decisions, the appeal on these grounds of appeal is allowed.”*

*3.5 In view of the very fact of the case, discussions made, judgement of the Hon’ble Courts cited supra and also following the similar ratio, I hereby delete, the disallowance made u/s 14A r.w. Rule 8D of the IT Rules, 1962 by the AO. Thus, ground 6 is allowed.”*

7. It is this order against which the Revenue is in appeal before this Tribunal.

8. Ld. DR placed heavy reliance on the order passed by the Assessing Officer.

9. Ld. Counsel for the assessee on the other hand relied on the order of Ld. CIT(A) and submitted before us that in assessee’s own case for Asstt. Year 2016-17, on identical facts of the case & also on similar grounds of appeal the appeal filed by the Revenue has already been dismissed by this Tribunal. Accordingly it was prayed before the Bench to maintain parity & dismiss the appeal filed by the revenue since during this year also the assessee has not earned any dividend income.

10. We have heard Ld. Counsels from both the sides and perused the material available on record. We find that in the assessee’s

own case for asstt. year 2016-17 the Co-ordinate Bench of this Tribunal in ITA No.1184/PUN/2024 order dated 07-10-2024 has dismissed the Revenue's appeal in favour of the assessee by observing as under :-

*“10. We have heard the rival arguments made by both the sides, perused the orders of the Assessing Officer and the Ld. CIT(A) and the paper book filed on behalf of the assessee. It is an admitted fact that the assessee has not received any dividend income during the year and the statement made by the Ld. Counsel for the assessee at the Bar could not be controverted by the Ld. DR. Further, in assessee's own case, the CIT(A) has already taken a view in assessment years 2012-13 and 2014-15 that in absence of any exempt income, there cannot be any disallowance u/s 14A of the Act. Nothing contrary was brought to our notice against the order of the CIT(A) for the earlier assessment years where such disallowance made by the Assessing Officer was deleted by him. Further, the CIT(A) while deciding the issue has followed the decision of the Hon'ble Supreme Court in the case of CIT vs. Chettinad Logistics Pvt. Ltd. (supra) where it has been held that in absence of any exempt income, no disallowance can be made u/s 14A of the Act. In view of the detailed reasoning given by the CIT(A) on this issue and in absence of any contrary material brought to our notice by the Revenue, we do not find any infirmity in the order of the CIT(A) deleting the disallowance made by the Assessing Officer. Accordingly, the same is upheld. The grounds raised by the Revenue are accordingly dismissed.*

*11. In the result, the appeal filed by the Revenue is dismissed.”*

11. Since admittedly the assessee has not received any exempt income during this year, therefore, respectfully following the above decision passed by the Jurisdictional Tribunal & in absence of any adverse material brought on record by the revenue, we are of the considered opinion that no addition is called for u/s 14 r.w.

Rule 8D of the IT Rules. We therefore do not find any infirmity in the order passed by Ld. CIT(A). Accordingly, the same is upheld.

The grounds raised by the Revenue are accordingly dismissed.

12. In the result, the appeal filed by the Revenue is dismissed

Order pronounced on this 30<sup>th</sup> day of December, 2024.

Sd/-  
**(R. K. PANDA)**  
**VICE PRESIDENT**

Sd/-  
**(VINAY BHAMORE)**  
**JUDICIAL MEMBER**

पुणे / Pune; दिनांक / Dated : 30<sup>th</sup> December, 2024.

*Sujeet*

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A)-13, Pune.
4. The Pr. CIT/CIT concerned.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "A" बेंच, पुणे / DR, ITAT, "A" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary  
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.