

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
DELHI BENCH 'D' NEW DELHI**

**BEFORE : SHRI C.M. GARG, JUDICIAL MEMBER &  
SHRI L.P. SAHU, ACCOUNTANT MEMBER**

**ITA No. 6393/Del./2013  
Asstt. Year : 2007-08**

D.C.I.T., Circle 12(1),  
New Delhi.

vs.

H.T. Media Limited,  
Hindustan Times House,  
18-20, Kasturba Gandhi Marg,  
New Delhi.

[PAN : AABCH3165P]

(Appellant)

(Respondent)

Appellant by : Ms. Sulekha Verma, CIT/DR  
Respondent by : Sh. V.P. Gupta, Advocate

Date of hearing : 30.10.2015  
Date of pronouncement : 18.01.2015

**ORDER**

Per L.P. Sahu, Accountant Member:

This is an appeal filed by Revenue against the order dated 06.09.2013 of ld. CIT(A)-XV, New Delhi for the assessment year 2007-08 on the following ground :

*"1. Whether Ld. CIT(A) was correct on facts and circumstances of the case and in law in restricting the addition of Rs.1,71,12,876/- made by the AO u/s. 14A r.w.r. 8D to Rs.8,39,534/-".*

2. The brief facts of the case are that originally the assessment order of the assessee was made u/s. 143(3) of the Act on 29.12.2009, whereby the AO had

disallowed Rs.2,14,23,570/- as expenditure attributable to dividend income of Rs.2,37,38,831/- exempt from tax, by invoking section 14A r.w.r. 8D. The assessee preferred appeal before the CIT(A), inter alia, challenging the above disallowance. During the pendency of this appeal, the Id. CIT-IV noticed some computational error in applying Rule 8-D, resulting into underassessment of income and consequential short levy of tax. Finally, the Id. CIT determined the disallowance u/r 8-D at Rs.3,85,36,446/- vide order u/s. 263 dated 11.11.2011. Accordingly, the Id. CIT directed the AO vide this order to recompute the disallowance as per Rule 8D read with section 14A of the Act. In pursuance to these directions, the AO passed order u/s. 143(3)/263 of the Act on 30.11.2012. In the meantime, the Id. CIT(A) vide order dated 24.01.2013 decided the appeal of assessee preferred against original assessment order dated 29.12.2009, thereby restricting the disallowance u/s. 14A to Rs.8,39,534/-, which stood confirmed by the ITAT vide order dated 14.03.2015. The assessee, being aggrieved by the order dated 30.11.2012 passed u/s. 143(3)/263, preferred appeal before the Id. CIT(A), which has been decided vide impugned order dated 06.09.2013 whereby the addition made by the AO has been deleted and the disallowance restricted earlier by his predecessor and by Tribunal to Rs.8,39,534/- stood confirmed. Being aggrieved, the Revenue is in appeal before us.

3. During the course of hearing, the ld. CIT-DR, relying on the order of the Assessing Officer, contended that the ld. CIT(A) is not justified in restricting the addition to Rs. 8,39,534/- u/s. 14A ignoring the fact that the Assessing Officer had corrected the computational error committed in original order, in pursuance to directions u/s. 263 of the Act. The ld. AR of the assessee, on the other hand, opposing the contention of the Revenue, submitted that s. 14A is not workable before the date of introduction of r. 8D w.e.f. 24<sup>th</sup> March, 2008, as prior to this date, there was no prescribed method of computation of disallowance u/s. 14A. Therefore, the order of the ld. CIT(A) does not call for any interference.

4. We have considered the rival submissions and the entire material available on record and we find no justification to interfere with the impugned order. A perusal of the impugned order reveals that the ld. First appellate authority (A) has deleted the addition after laying its hands on the decision of Mumbai High Court in the case of M/s. Godrej Boyce Mfg. Company Ltd. vs. DCIT, 328 ITR 81 (Bom) and of Hon'ble Delhi High Court in the case of Maxopp Investment Ltd. vs. CIT, 247 CTR 162. We have also gone through these

decisions. Hon'ble jurisdictional High Court in the case of Maxopp Investment Ltd. vs. CIT (supra), has observed on the issue as under :

*“Insofar as sub-ss. (2) and (3) of s. 14A are concerned, they have also been introduced by virtue of the Finance Act, 2006 specifically provided for applicability of the provisions of sub-s. (2) and it clearly indicated that it would be applicable from the asst. Yr. 2007-08 onwards. It is, therefore, clear that sub-ss. (2) and (3) of s. 14A were introduced with prospective effect from the asst. yr. 2007-08 onwards. However, sub-s. (2) of s. 14A remained an empty sheet until the introduction of r. 8D on 24<sup>th</sup> March, 2008 which gave content to the expression “such method as may be prescribed” appearing in s. 14A(2). In effect, the provisions of sub-ss. (2) and (3) of s. 14A would be workable only with effect from the date of introduction of r. 8D. This is so because prior to that date, there was no prescribed method and sub-ss. (2) and (3) of s. 14A remained unworkable.”*

5. In view of this decision, we find that the method of computation of disallowance u/s. 14A adopted by the AO could be applicable from the date of introduction of Rule 8D, i.e., 24<sup>th</sup> March, 2008, i.e., A.Y. 2008-09, whereas the case before us pertains to the assessment year 2007-08. We, therefore, do not find any justification to disregard the findings arrived at by the ld. CIT(A) in the impugned order while restricting the disallowance u/s. 14A to Rs.8,39,534/- which was based on the theory of apportionment of expenditure between the taxable and non-taxable income and this view already stood affirmed by ITAT vide order dated 14.03.2015. This was the correct method of computation of disallowance u/s. 14A prior to the date of

introduction of Rule 8d. We, accordingly, do not find any merit in the appeal of the Revenue and the same is liable to be dismissed.

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

Order pronounced in the open court on 18.01.2016.

Sd/-  
**(C.M. GARG)**  
Judicial Member

Sd/-  
**(L.P. SAHU)**  
Accountant Member

Dated : 18.01.2016

\*aks/-

*Copy of order forwarded to:*

(1) *The appellant*  
(3) *Commissioner*  
(5) *Departmental Representative*

(2) *The respondent*  
(4) *CIT(A)*  
(6) *Guard File*

*By order*

*Assistant. Registrar*  
*Income Tax Appellate Tribunal*  
*Delhi Benches, New Delhi*