

IN THE INCOME TAX APPELLATE TRIBUNAL
“C” BENCH : BANGALORE

BEFORE SHRI SUNIL KUMAR YADAV, JUDICIAL MEMBER
AND SHRI A.K. GARODIA, ACCOUNTANT MEMBER

ITA No.130/Bang/2016
Assessment year : 2012-13

The Income Tax Officer, Ward 4(1)(3), Bangalore.	Vs.	M/s. Mardec RK Latex Pvt. Ltd., No.A-101 & 102, KSSIDC Industrial Estate, Veerapura Post, Doddaballapur, Bengaluru – 561 203. PAN: AAACC 9284F
APPELLANT		RESPONDENT

CO No.69/Bang/2016 [in ITA No.130/Bang/2016]
Assessment year : 2012-13

M/s. Mardec RK Latex Pvt. Ltd., Bengaluru – 561 203. PAN: AAACC 9284F	Vs.	The Income Tax Officer, Ward 4(1)(3), Bangalore.
CROSS OBJECTOR		RESPONDENT

Revenue by	:	Shri M.K. Biju, Jt. CIT(ITAT-3)(DR)
Assessee by	:	Shri A. Venugopal, CA

Date of hearing	:	06.12.2016
Date of Pronouncement	:	22.02.2017

ORDER

Per Sunil Kumar Yadav, Judicial Member

This appeal is preferred by the revenue against the order of CIT(Appeals) on a solitary ground that the CITA has failed to appreciate that the AO has rightly invoked the provisions of section 14A of the I.T. Act r.w. Rule 8D of the I.T. Rules in arriving at the disallowance made in the assessment order.

2. During the course of hearing, the Id. counsel for the assessee has invited our attention that assessee did not earn any exempt income, therefore there was no question of disallowance u/s. 14A of the Act. In support of his contention, assessee has placed reliance on the order of Bangalore Bench of the Tribunal in the case of *M/s. Alliance Infrastructure Projects Pvt. Ltd. v. DCIT [ITA Nos. 220 & 1043(BNG)/2013]* and the order of Chennai Bench of the Tribunal in the case of *ACIT v. M. Baskaran [ITA No.1717/Mds/2013]* in which it has been held that in case of assessee is not receiving any exempt income during the relevant financial year, disallowance u/s. 14A cannot be made. Reliance was also placed upon the order of Ahmedabad Bench of Tribunal in the case of *M/s. Suzlon Energy Ltd. v. DCIT in ITA Nos.3911/Ahd/2008 and 1367/Ahd/2008*. In these cases, the Tribunal has categorically held that in the absence of exempt income, the provisions of section 14A cannot be invoked.

3. The Id. DR placed reliance upon the order of AO.
4. Having carefully examined the orders of lower authorities, we find that the AO has given a categorical finding in his order that there was no exempt income earned during the year. Therefore, following the aforesaid orders of the Tribunal, the CIT(Appeals) has deleted the disallowance made u/s. 14A of the Act. Since the CIT(A) has decided the issue following the orders of Tribunal, we find no infirmity therein and accordingly we confirm the same.
5. CO is filed by the assessee in support of the order of CIT(Appeals). Since the appeal of the revenue is dismissed, CO of the assessee has become infructuous and we dismiss the same.
6. In the result, the appeal and CO of the assessee are dismissed.

Pronounced in the open court on this 22nd day of February, 2017.

Sd/-

(A.K. GARODIA)
Accountant Member

Sd/-

(SUNIL KUMAR YADAV)
Judicial Member

Bangalore,
Dated, the 22nd February, 2017.

/D S/

Copy to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR, ITAT, Bangalore.
6. Guard file

By order

Assistant Registrar,
ITAT, Bangalore.