

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

**BEFORE SHRI J. SUDHAKAR REDDY, ACCOUNTANT MEMBER  
AND SHRI SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER**

**ITA No.1144/Del/2014**

**AY: 2010-11**

DCIT, Circle 6(1)  
New Delhi

vs. Mercantile Capital & Financial  
Services P.Ltd.  
G 71, Ground floor  
World Trade Centre  
Barakhamba road  
New Delhi 110 001

PAN: AAACD 9678 C

**(Appellant)**

**(Respondent)**

**Appellant by** : Sh. Rajesh Kumar, Sr.D.R

**Respondent by** : Sh. Salil Aggarwal, Adv.

**ORDER**

**PER J.SUDHAKAR REDDY, ACCOUNTANT MEMBER**

This is an appeal filed by the Revenue directed against the order of the Ld. Commissioner of Income Tax (Appeals) –IX, New Delhi dated 12.12.2013 pertaining to the Assessment Year (A.Y.) 2010-11.

2. After hearing rival submissions we find that the dividend earned by the assessee company is Rs.31,198/-. The assessee has suo moto disallowed an amount of Rs.38,14,783/- u/s 14A

of the Act. The Jurisdictional High Court in the case of CIT vs. Taikisha Engineering India Ltd. 370 ITR 358 (Del.) has held that, without recording objective satisfaction as required under Sub Section (2) to S.14A of the Income Tax Act, 1961 (the Act) that the A.O. is not satisfied with the correctness of the claim of the assessee in respect of expenditure incurred in relation to exempt income, Rule 8D of ITAT Rules, 1962 cannot be invoked.

3. The Delhi A Bench of the Tribunal in ITA 2358/Del/2013 in the case of M/s Amar Packaging Pvt.Ltd. vs. ITO order dt. 29.4.2016, relied on the decision of the Jurisdictional High Court in the case of Joint Investments Pvt. Ltd. vs. CIT (2015) 372 ITR 694 (Del.) and at para 12 held as follows.

*“12. In the instant case, AO worked out the disallowance as per section 14A read with Rule 8D of the Income Tax Rules, 1962 which is not sustainable in the view of law laid down by Hon’ble Jurisdictional High Court in judgement cited as Joint Investments Pvt. Ltd. vs. CIT (supra) discussed in preceding para 11, as the disallowance cannot exceed the income claimed by the assessee as exempt income. We, therefore, restrict the disallowance of Rs.7,01,194/-, particularly when the assessee has not proved on record as to how his figure of Rs.54,217/- was worked out. Consequently, the present appeal filed by the assessee is partly allowed for statistical purposes.”*

3.1. As the disallowance made by the assessee suo motto, is more than the dividend income earned by it we uphold the contentions of the assessee.

4. In the result the appeal by the Revenue is dismissed.

Order pronounced in the Open Court on 29<sup>th</sup> September, 2016.

Sd/-

**(SUDHANSHU SRIVASTAVA)  
JUDICIAL MEMBER**

Sd/-

**(J. SUDHAKAR REDDY)  
ACCOUNTANT MEMBER**

Dated: the 29<sup>th</sup> September, 2016

• *Manga*

Copy forwarded to: -

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR, ITAT

- TRUE COPY -

By Order,

**ASSISTANT REGISTRAR**  
ITAT Delhi Benches New Delhi