

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCHES : "A" NEW DELHI**

**BEFORE SHRI J.SUDHAKAR REDDY, AM  
AND SHRI A.T. VARKEY, J.M.**

**ITA No: 2072/Del/2013  
AY : 2009-10**

Aadya Trading and Investment P.Ltd. vs. ITO, Ward 1(2)  
(now known as Amrapali Aadya Trading P.Ltd. New Delhi  
13, Vaishali, Lala Jagat Narain Marg  
Pitampura  
New Delhi 110 034

PAN: AAECA 3909 P

**(Appellant)**

**(Respondent)**

**Appellant by** : Sh. A.K.Srivastava, C.A.  
**Respondent by:** Sh.S.K. Jain, D.R.

**ORDER**

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

This is an appeal filed by the Assessee directed against the order of the Ld.Commissioner of Income Tax (Appeals)-IV, New Delhi dated 08.01.2013 pertaining to the Assessment Year (A.Y.) 2009-10.

**2.** We have heard Shri A.K.Srivastava, the Ld.Counsel for the assessee and Shri SK Jain, Ld.Sr.D.R. on behalf of the Revenue. On a careful consideration of the facts and circumstances of the case, perusal of material on record, orders of lower authorities, case laws cited, we hold as follows.

**3.** Ground nos. 3 and 4 are not pressed by the Ld.Counsel for the assessee. Hence they are dismissed as 'not pressed'.

**3.1.** Ground nos. 1 and 5 are general in nature which needs no adjudication.

**4.** This leaves us with ground no.2 which reads as under.

*“2. The Ld.CIT(A) has grossly erred in law and on facts in sustaining the addition of Rs.2,87,963/- on account of expenses relatable to dividend income of Rs.1,17,053/- by invoking provisions of S.14A r.w. Rule 8D to calculate such amount of disallowance without appreciating the submissions made by the assessee.”*

**4.1.** The facts relating to ground no.2 are that the assessee has earned dividend income to the tune of Rs.1,17,053/- during the year. The assessee contended during the assessment proceedings that provisions of S.14A r.w. Rule 8D does not apply to the case of the assessee, as no expenses were incurred for earning the dividend income. However, while framing the assessment the AO attributed an amount of Rs.2,87,963/- as expenditure which is to be disallowed u/s 14A of the Act.

**4.2.** We find that the A.O. has identified the following expenditure as that which is incurred in relation to earning of exempt income.

(a) De-mat charges Rs.2,68,938/-: The assessee pointed out that it had recovered Rs.3,36,431/- from the clients towards De-mat charges. This factual submission could not be contradicted by the Ld.D.R. Hence the entire De-mat expenses were recovered from the clients by the assessee. The finding of the Revenue authorities that De-mat charges being expenses directly related to income which do not form part of total income is in principle right. But as the same is recovered, there is no such expenditure incurred by the assessee. Hence a disallowance on this count is bad in law.

(b) This leaves us with the disallowance of Rs.19,024/-. The Ld.Counsel for the assessee advanced arguments that the disallowance of this amount is also bad in law. He filed detailed submissions and calculation as per Rule 8D. On a query from the Bench he submitted that he would not press this ground against the disallowance of Rs.19,024/- due to smallness of the amount provided, it is not taken as a precedent for the subsequent years.

**4.3.** In view of the above submissions we restrict the disallowance of Rs.2,87,963/- to Rs.19,024/-. The assessee gets relief of Rs.2,68,938/-. The concession given by the assessee shall not be taken as a precedent.

5. In the result assessee's appeal is allowed in part.

Order pronounced in the Open Court on 24<sup>th</sup> February, 2016.

Sd/-

**(A.T. VARKEY)**  
**JUDICIAL MEMBER**

Sd/-

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

Dated: the 24<sup>th</sup> February, 2016

*\*manga*

Copy of the Order forwarded to:

1. Appellant;
2. Respondent;
3. CIT;
4. CIT(A);
5. DR;
6. Guard File

By Order

Asst. Registrar