

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

**BEFORE SHRI SUNIL KUMAR YADAV, JUDICIAL MEMBER  
AND SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER**

ITA No.265/Bang/2016
Assessment year : 2012-13

M/s. Tanglin Retail Reality Developments Private Limited, No.23/2, 9 <sup>th</sup> Floor, Coffeeday Square, Vittal Mallya Road, Bengaluru-560001. <b>PAN : AADCT0023G</b>	Vs.	Deputy Commissioner of Income Tax, Circle-5(1)(1), Bengaluru.
APPELLANT		RESPONDENT

Assessee by	:	Shri. C. Ramesh, CA
Revenue by	:	Shri. M. K. Biju, JCIT

Date of hearing	:	21.02.2017
Date of Pronouncement	:	31.03.2017

**ORDER**

*Per Sunil Kumar Yadav, Judicial Member*

This appeal is preferred by the assessee against the order of CIT(A)  
on the following grounds:

1. *The order of the learned Commissioner of Income Tax (Appeals) is opposed to the facts of the case and law applicable to it.*
  2. *The learned Commissioner of Income Tax (Appeals) erred in confirming disallowance to the extent of Rs.68,40,793/- under the provisions of section 14A of the act r.w. Rule 8D(2)(iii) of the Rules ignoring the fact that, for the facts of the appellant case the provisions of section 14A of the act, does not apply.*
  3. *The learned Commissioner of Income Tax (Appeals) erred in confirming the disallowance U/s.14A of the act, ignoring the fact that, the appellant had not received any exempt income and therefore no expenditure could have been disallowed under the said provisions.*
  4. *The learned Commissioner of Income Tax (Appeals) erred in not following the ratio in regard to the position of law laid down by the Hon'ble High Court of Karnataka in the case of M/s.CCI Limited Vs. JCIT, Udupi Range in ITA No.359/2011, wherein it is held that, in the absence of exempt income no disallowance can be made U/s.14A of the act.*
  5. *The learned Commissioner of Income Tax (Appeals) erred in not appreciating the fact that, the disallowance U/s.14A of the act, has been made by the Assessing Officer without any material to prove that, the appellant has infact incurred any expenditure in connection with the investments allegedly for the purpose of earning exempt income.*
  6. *The appellant craves permission to add, delete or alter any of the grounds at the time of hearing.*
2. During the course of hearing, the learned counsel for the assessee has contended that the assessee has not received any exempted income therefore no disallowance under section 14A can be made. In support of

his contention, he has invited our attention to computation of income along with Balance Sheet. He has also placed reliance upon the judgment of jurisdictional High Court in the case of *M/s. CCI Limited Vs. JCIT, Udupi Range in ITA No.359/2011*, wherein it has been held that in the absence of any exempted income under the provisions of the Act, no disallowance can be made under the provisions of section 14A of the Act. Besides, he also placed reliance upon series of judgments mentioned in the written submissions. Copy of the order of the Tribunal in which identical view has been taken in the case of *M/s.Fair Exports (India) P. Ltd., Vs. ACIT in ITA No.1880/2012* of Mumbai Bench is placed on record.

3. The learned DR simply placed reliance upon the order of the CIT(A).

4. Having carefully examined the order of the lower authorities in the light of the rival submissions, we find that the assessee has not received any exempted income, therefore no disallowance under section 14A is to be made. We have also carefully examined the computation of income and the Balance Sheets and find that the assessee has not earned any exempted income. We have also examined the judgments referred to by the assessee in which a similar proposition has been laid down. Therefore, we are of the view that when the assessee has not received any exempted income, no disallowance under section 14A can be made. We accordingly set aside the order of the CIT(A) and delete the additions made after making disallowance under section 14A of the Act.

5. In the result, the appeal filed by the assessee is allowed.

*Pronounced in the open court on this 31<sup>st</sup> day of March, 2017.*

Sd/-  
**(INTURI RAMA RAO)**  
**Accountant Member**

Sd/-  
**(SUNIL KUMAR YADAV)**  
**Judicial Member**

Bangalore.

Dated: 31<sup>st</sup> March, 2017.

/NS/

Copy to:

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

By order

Assistant Registrar,  
ITAT, Bangalore.