

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

BEFORE SHRI SUNIL KUMAR YADAV, JUDICIAL MEMBER
AND SHRI S. JAYARAMAN, ACCOUNTANT MEMBER

ITA No.1416/Bang/2014
Assessment year : 2013-14

Duster Total Solutions Services Pvt. Ltd., No.50, 4 th Floor, Zatakia Center, Indiranagar, Bangalore. PAN: AACCD 5989D	Vs.	The Income Tax Officer, Ward 2(1)(3), Bangalore.
APPELLANT		RESPONDENT

Appellant by	:	None
Respondent by	:	Shri M.K. Biju, Jt.CIT(DR)(ITAT-3), Bengaluru

Date of hearing	:	18.04.2017
Date of Pronouncement	:	21.04.2017

ORDER

Per Sunil Kumar Yadav, Judicial Member

This appeal is preferred by the assessee against the order of CIT(Appeals) *inter alia* on the following grounds:-

- “1. The order of the Commissioner of Income Tax (Appeals)-2 dated 15.06.2016 for the Assessment Year 2013-14 is contrary to law, facts, and in the circumstances of the case.
2. The CIT(A) failed to appreciate that section 14A should be applied only when there is an exempted income earned out

of investment and not otherwise. The Appellant had not earned exempted income during the AY 2013-14.

3. The CIT(A) failed to appreciate the fact that in the case of Appellant, the amount invested in the subsidiaries was met out of the accumulated reserves and surplus. The reserves & surplus available was more than the short term borrowings. Hence, there was no money diverted out of the borrowed funds. The Appellant relies on the decision in the case of DC IT V Microlabs Ltd, ITAT Bangalore (62 taxmann.com 60) where it has been stated that availability of profit, share capital and reserves & surplus are much more than the investments made by the assessee which could yield tax free income, then the disallowance of interest expense u/s 14A is not justified.
4. The CIT(A) failed to appreciate the fact that the investment was made by the Appellant in its subsidiaries and was on account of business strategy and not to earn exempted income. Hence, to carry out the same line of business the investment was made in the subsidiary. Accordingly, this investment should not be compared with the other exempted investment for disallowance u/s 14A.
5. The Appellant craves leave to file additional grounds/arguments at the time of hearing.”

2. This appeal was listed for hearing on 18.04.2017, but none appeared on behalf of the assessee, despite service of the notice of hearing. AD card is placed on record. Since the assessee did not appear, we have no option, but to hear the appeal *ex parte*, *qua* the assessee. Accordingly, the revenue was heard.

3. We have carefully examined the order of the CIT(Appeals) on the impugned grounds and we find that he has rightly adjudicated the issues in

detail and we find no infirmity therein. Accordingly, we confirm the order of CIT(Appeals).

4. In the result, the appeal of assessee is dismissed.

Pronounced in the open court on this 21st day of April, 2017.

Sd/-

(S. JAYARAMAN)
Accountant Member

Sd/-

(SUNIL KUMAR YADAV)
Judicial Member

Bangalore,
Dated, the 21st April, 2017.

/ Desai Smurthy /

Copy to:

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

By order

Assistant Registrar,
ITAT, Bangalore.