

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

BEFORE SHRI N.V. VASUDEVAN, VICE PRESIDENT
AND SHRI B R BASKARAN, ACCOUNTANT MEMBER

ITA No. 1622/Bang/2019
Assessment year: 2013-14

M/s Jagadale Industries Pvt. Ltd., No.782, 15 th Cross, JP Nagar, 1 st Phase, Bengaluru – 560 078. PAN: AAACJ4499B	Vs.	The Deputy Commissioner of Income Tax Central Circle- 1(4) Bengaluru
APPELLANT		RESPONDENT

Appellant by	:	Shri L. Bharath, CA
Respondent by	:	Shri Priyadarshini Mishra, JCIT(DR)(ITAT), Bengaluru.

Date of hearing	:	27.02.2020
Date of Pronouncement	:	18.03.2020

ORDER

Per N.V. Vasudevan, Vice President

This appeal by the assessee is against the order dated 15.05.2019 of the CIT(Appeals)-11, Bengaluru relating to assessment year 2013-14.

2. The only issue that arises for consideration in this appeal is with regard to the disallowance of expenses incurred in earning exempt income in terms of section 14A of the Income-tax Act, 1961 [the Act] r.w. Rule 8D(2)(ii) & (iii) of the Income-tax Rules, 1962 [the Rules].

3. The assessee is a company engaged in the business of Manufacturing of drugs, Pharmaceutical and food processing. It is not in

dispute that the assessee earned dividend income. There is no reference to the quantum of dividend income earned by the Assessee in any of the orders of the revenue authorities. The Assessee claims that the dividend earned by it is only a sum of Rs.6,600/- which is not chargeable to tax under Chapter III [section 10(34)] of the Act. The profit & Loss Account in Note No.21 shows that the dividend income earned is only a sum of Rs.6,600/-. By applying the formula in Rule 8D(2(ii) & (iii) of the Rules, the AO computed disallowance u/s.14A of the Act at a sum of Rs.10,08,791/- which was added to the total income of the Assessee. The disallowance made by the AO was confirmed by the CIT(Appeals).

4. Aggrieved by the order of CIT(Appeals), the assessee has preferred the present appeal before the Tribunal.

5. We have heard the rival submissions. At the time of hearing the learned counsel for the Assessee restricted his arguments only to the effect that the disallowance under section 14A of the Act should be restricted to the extent of dividend income earned by the Assessee in the light of the decision of the Hon'ble D Ihi High Court in the case of *Joint Investments (P) Ltd. v. CIT*, 372 ITR 694 wherein a view was taken that disallowance u/s. 14A of the Act cannot exceed the exempt income. Similar view was expressed by the Hon'ble Delhi High Court in the case of *CIT v. Holcim India Pvt. Ltd.*, 272 CTR 282 (Del). These decisions were considered by the Mumbai Bench of the Tribunal in the case of *Future Corporate Resources Ltd v. ACIT*, ITA No.4658/Mum/2015 dated 26.07.2017 relating to AY 2011-12 and it was held by the Tribunal Mumbai Bench that disallowance u/s. 14A of the Act cannot exceed the exempt income. Following the aforesaid decisions, we hold that disallowance u/s. 14A of the Act in the present case should be restricted to the exempt income earned by the assessee. Since the quantum of dividend income is not found spelt out in the orders of the revenue authorities, we remand the issue to the AO

for the limited purpose of ascertaining the quantum of exempt income earned by the Assessee. We hold and direct accordingly.

6. In the result, the appeal of the assessee is allowed to the extent indicated above.

Pronounced in the open court on this 18th day of March, 2020.

Sd/-

(B R BASKARAN)
ACCOUNTANT MEMBER

Sd/-

(N V VASUDEVAN)
VICE PRESIDENT

Bangalore,
Dated, the 18th March, 2020.

/Desai S Murthy/

Copy to:

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

By order

Assistant Registrar
ITAT, Bangalore.