

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI "F" BENCH: NEW DELHI**

**(THROUGH VIDEO CONFERENCING)**

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER &  
DR.B.R.R.KUMAR, ACCOUNTANT MEMBER**

**ITA No.6712/Del/2017  
Assessment Year : 2014-15**

Paliwal GDR Homestyles (P.) Ltd., 38, Functional Indl. Estate, Paharganj, New Delhi-110092 PAN-AAACP3904F	vs	DCIT, Circle-10(1), New Delhi.
<b>APPELLANT</b>		<b>RESPONDENT</b>
<b>Appellant by</b>	Ms. Monika Aggarwal, CA	
<b>Respondent by</b>	Ms. Mrinalini Sapra, Sr.DR	
<b>Date of Hearing</b>	26.08.2021	
<b>Date of Pronouncement</b>	03.09.2021	

**ORDER**

**PER KUL BHARAT, JM :**

This appeal filed by the assessee pertaining to assessment year 2014-15 is directed against the order of Ld. CIT(A)-35, New Delhi dated 25.08.2017.

The assessee has raised following solitary grounds of appeal:-

1. *"That the learned Commissioner of Income Tax (Appeals)-35, New Delhi has erred both in law and on facts in sustaining the disallowance of Rs. 3,07,3071/- representing expenditure disallowable by invoking section 14A read with rule 8D of the Act.*
2. *That the learned Commissioner of Income Tax (Appeals) completely ignored the fact that, only a portion of investment is generating dividend which is tax free and also failed to appreciate that all the investment were made from own interest free funds available to assessee ,even on the principle of consistency the disallowance made is untenable.*
3. *That the learned Commissioner of Income Tax (Appeals) completely ignored the decision In the case of CIT v. HDFC Bank Limited (ITA No. 330 of 2012), Bombay High Court where it was held that no disallowance u/s 14A can be made in respect of interest paid on borrowing if assessee's own funds and non-interest bearing funds exceeds investment in tax-free securities.*

*It is therefore, prayed that disallowance made and sustained by the learned Commissioner of Income Tax (Appeals) may kindly be deleted and appeal of the appellant company be allowed.”*

2. The only effective ground raised by the assessee is against the disallowance made u/s 14A of the Income Tax Act, 1961 (“the Act”) r.w.Rule 8D of the Income Tax Rules, 1962 (“the Rules”) amounting to Rs.3,07,307/-.

3. Facts in brief of the present case are that the assessee filed its return of income at Rs.1,40,18,020/-. The case was selected for scrutiny assessment and the assessment u/s 143(3) of the Act was framed vide order dated 24.11.2016. By framing the assessment, the Assessing Officer made addition u/s 14A of the Act in terms of the provision of Rule 8D of the Rules amounting to Rs.3,07,307/-. Apart from it, the Assessing Officer also made certain adhoc disallowance of Rs.1,37,303/- in respect of telephone expenses and vehicle running expenses.

4. Aggrieved against this, the assessee preferred the appeal before Ld.CIT(A), who after considering the submissions, partly allowed the appeal of the assessee. Thereby, the addition of Rs.1,37,303/- was deleted and the addition of Rs.307,307/- was confirmed as made by invoking the provision of section 14A of the Act.

5. Aggrieved against this, the assessee is in appeal before this Tribunal.

6. At the outset, Ld. Counsel for the assessee submitted that in this case, the assessee had earned a dividend income of Rs.49,489/- only. Ld. Counsel for the assessee submitted that no disallowance could be made in excess of the exempt income. In support of this contention, Ld. Counsel for the assessee

relied on the judgement of Hon'ble Jurisdictional High Court rendered in the case of *Joint Investment P.Ltd. vs CIT 372 ITR 694 (Del.)*.

7. Per contra, Ld. Sr. DR supported the orders of the authorities below.

8. We have heard the rival contentions and perused the material available on record. The Revenue has not controverted the fact that during the year under appeal, the assessee had earned a dividend income of Rs.49,489/- only. The Hon'ble Delhi High Court in the case of *Joint Investment P.Ltd. vs CIT* (supra) held that "*by no stretch of imagination can Section 14A or Rule 8D be interpreted so as to mean that the entire tax exempt income is to be disallowed. The window for disallowance is indicated in Section 14A, and is only to the extent of disallowing expenditure; incurred by the assessee in relation to the tax exempt income. This proportion or portion of the tax exempt income surely cannot swallow the entire amount as has happened in this case.*" Respectfully following the ratio laid down by the Hon'ble Delhi High Court, we direct the Assessing Officer to restrict the disallowance to the extent of exempt income of Rs.49,489/- u/s 14A r.w.Rule 8D of Rules. Thus, grounds raised by the assessee in this appeal are partly allowed.

9. In the result, the appeal of the assessee is partly allowed.

Above decision was pronounced on conclusion of Virtual Hearing in the presence of both the parties on 03.09.2021.

**Sd/-**  
**(DR. B.R.R.KUMAR)**  
**ACCOUNTANT MEMBER**

**Sd/-**  
**(KUL BHARAT)**  
**JUDICIAL MEMBER**

*\*Amit Kumar\**

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR  
ITAT, NEW DELHI