

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'E', NEW DELHI**

**BEFORE SH. N. K. BILLAIYA, ACCOUNTANT MEMBER
AND
SH. SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER**

ITA No.599/DEL/2018
Assessment Year: 2013-14

OPG Securities Pvt. Ltd. OPG House, 4/10, Asaf Ali Road, New Delhi -110002	Vs	DCIT Circle – 19 (1) New Delhi
(APPELLANT)		(RESPONDENT)

Appellant by	Sh. Rohit Jain, Advocate
Respondent by	Ms. Rakhi Vimal, Sr. DR

Date of hearing:	06/01/2021
Date of Pronouncement:	08/01/2021

ORDER

PER N. K. BILLAIYA, AM:

This appeal by the assessee is preferred against the order of the CIT(A)-38, New Delhi dated 23.10.2017 pertaining to A.Y. 2013-14.

2. The assessee is aggrieved by two additions first disallowance u/s.14A and second disallowance of interest u/s. 36 (1) (iii) of the Act.

3. Briefly stated the appellant is a member of Bombay Stock exchange and national stock exchange and is indulge in the business of share trading. During the course of the scrutiny assessment proceedings the AO noticed that the assessee has earned dividend income of Rs.364490/-. The AO noticed that the assessee has not disallowed any expenses for earning the exempt income u/s. 14A of the Act.

4. The AO was of the firm belief that disallowances u/s.14A r.w rule 8D has to be made and accordingly computed the disallowance at Rs.13.59 lacs.

5. Assessee strongly agitated the matter before the CIT(A) and vehemently contended that no expenditure was incurred for earning the exempt income. It was contended that the appellant is doing share trading business and earning of dividend income is incidental.

6. After considering the facts and the submissions the CIT(A) was of the opinion that the disallowance made by the AO is excess and drawing support from the decision of Hon'ble Delhi High Court in the case of Joint Investment Private Limited 2015,

3 TMI 155 restricted the disallowance to the extent of the exempt income amounting to Rs.364690/-.

7. Before us the counsel for the assessee vehemently stated that no satisfaction was recorded by the AO before invoking the provisions of section 14A of the Act. The counsel further drew our attention to the decision of the Tribunal in assessee's own case for earlier assessment year and pointed out that the Tribunal has, on identical set of facts, deleted the disallowance u/s. 14A of the Act.

8. Per contra the DR strongly supported the findings of the AO and stated that by not accepting the contention of the assessee the AO has impliedly recorded his satisfaction. The DR further stated that there is no error in the findings of the CIT(A).

9. We have given a thoughtful consideration to the orders of the authorities below. In so far as considering the interest part in the disallowance made by the AO u/s.14A read with rule 8 D is concerned, in our considered opinion since the assessee had sufficient own interest free funds no disallowance should have been made considering the interest. In so far as the disallowance of administrative expenses is concerned we find that the CIT(A) has restricted disallowance to the extent of the exempt income relying upon the decision of the Hon'ble Jurisdictional High Court of Delhi. We are of the opinion that such disallowance

is reasonable and need no interference. Ground No.1 is accordingly dismissed.

10. During the assessment proceedings the AO noticed that the assessee has given interest free advances to its sister concern. The AO was of the firm belief that the interest incurred by the assessee on the loans borrowed by it need to be proportionately disallowed and accordingly disallowed Rs.3315127/-.

11. Assessee carried the matter before the CIT(A) but without any success.

12. Before the counsel for the assessee vehemently stated that on identical set of facts the Tribunal in earlier assessment year has deleted the addition.

13. We have carefully considered the orders of the authorities below. Facts emanating from the assessment order show that on the first day of the accounting year the loans and advances were Rs.15.70 crores and in the last day of the accounting year loans and advances have been reduced to Rs.9.55 crores. This means that no fresh loans / advances were given during the year under consideration. Further the interest free funds available with the assessee is around Rs.38 crores, therefore, it can be safely concluded that the loans and advances given to the sister concern have been given out of own interest free funds. On these facts no

disallowance need to be made, we accordingly direct the AO to delete the addition of Rs.33,15,127/-. Ground No.2 is accordingly allowed.

14. In the result, the appeal filed by the assessee is partly allowed.

Sd/-
(SUDHANSHU SRIVASTAVA)
JUDICIAL MEMBER

NEHA

Date:- 08.01.2021

Copy forwarded to:

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

Sd/-
(N. K. BILLAIYA)
ACCOUNTANT MEMBER

ASSISTANT REGISTRAR
ITAT NEW DELHI

Date of dictation	07.01.2021
Date on which the typed draft is placed before the dictating Member	08.01.2021
Date on which the typed draft is placed before the Other member	08.01.2021
Date on which the approved draft comes to the Sr.PS/PS	08.01.2021
Date on which the fair order is placed before the Dictating Member for Pronouncement	08.01.2021
Date on which the fair order comes back to the Sr. PS/ PS	08.01.2021
Date on which the final order is uploaded on the website of ITAT	08.01.2021
Date on which the file goes to the Bench Clerk	08.01.2021
Date on which file goes to the Head Clerk.	
The date on which file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	