

IN THE INCOME TAX APPELLATE TRIBUNAL  
HYDERABAD BENCH "B", HYDERABAD

BEFORE SMT. P. MADHAVI DEVI, JUDICIAL MEMBER  
AND  
SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER

ITA No.1784/Hyd/2017		
Assessment Year: 2014-15		
Income Tax Officer, Ward-16-(2), R.No. 229, Block-B, 2 <sup>nd</sup> Floor, I.T. Towers, A.C. Guards, Hyderabad-004.	Vs.	M/s. Nandini Industries India Pvt Ltd., 3-179/NR, Plot No.179, Guttalabegumpet S1, Phase-II, Kavuri Hills, Madhapur, Hyderabad. PAN: AABCC 1975 C
(Appellant)		(Respondent)
Assessee by:	Sri V. Siva Kumar	
Revenue by:	Sri Kiran Katta DR	
Date of hearing:	05.12.2018	
Date of pronouncement:	26.12.2018	

**ORDER**

**PER S. RIFAUR RAHMAN, A.M.:**

This appeal filed by the Revenue is directed against the order of the CIT(A)-4, Hyderabad dated 18.08.2017 for the assessment year 2014-15. In this appeal, Revenue raised the following grounds of appeal:

1. *The CIT(A) erred in deleting the disallowance u/s 14A of Rs. 73,35,644/-.*
2. *The CIT(A) erred in ignoring CBDT's Circular No. 5 of 2014 dated 11.02.2014.*
3. *The CIT(A) erred in ignoring the Supreme Court decision in the case of CIT vs. Walfort share of Stock Brokers P Ltd (326 ITR 1), wherein it was held that the mandate of section 14A was to curb the practice of claiming deduction of expenses incurred in relation to exempt income against taxable income and at the same time avail of the incentive by way of exempt income without making any apportionment of expenses incurred in relation to exempt income.*
4. *Any other ground that may be urged at the time of hearing."*

2. Brief facts of the case are that the assessee-company, engaged in the business of Project Exports in Turnkey basis, SMO Trading and International Trading in commodities, filed its return of income declaring NIL taxable income. The case was selected for scrutiny under CASS. During the assessment proceedings, A.O observed that during the year the assessee-company has invested Rs. 6,57,32,712/-. It was further observed that the assessee claimed an amount of Rs. 15,11,31,685/- as interest expenditure. Assessee was asked to explain why the provisions of section 14A of the Act should not be invoked. In response, assessee submitted that since no expenditure has been incurred for earning of exempt income, no disallowance is called for u/s 14A of the Act. Not convinced with the explanation of the assessee, A.O invoked the provisions of section 14A of the Act and made disallowance of Rs. 73,35,644/- as per Rule 8D of the IT Rules.

3. Aggrieved, assessee preferred an appeal before the CIT(A), who relied upon the decision of the ITAT, Hyderabad "B" Bench in the case of Prathista Industries Ltd vs. DCIT (ITA No. 1302/Hyd/2015, dated 29.04.2016) and deleted the addition made by the A.O. since there is no dividend income during the year. Aggrieved with the decision of the CIT(A), Revenue is in appeal before us by raising the above-mentioned grounds of appeal.

4. Before us, Learned Counsel for the Assessee drawn our attention to page 7 and 17 of the paper book (P & L Account and computation of total income) and submitted that did not derive any dividend income from the investments made during the year and no exemption was claimed by it and therefore, invoking of provisions of section 14A r.w.r 8D is not justifiable. Learned Counsel for the Assessee supported the

decision of the CIT(A) and relied upon the decision of the ITAT, Hyderabad in the case of Prathista Industries Ltd vs. DCIT (supra).

5. On the other hand, Learned Departmental Representative relied on the order of the A.O. In the written submissions filed before us, Learned DR heavily relied on the CBDT Circular No.5 of 2014, dated 11.02.2015.

6. Considered the rival submissions and perused the material on record. After hearing both the parties and on perusal of the submissions made before us as well as the decision of the Tribunal in the case of Prathista Industries Ltd vs. DCIT (supra) wherein the Tribunal has followed the Delhi High Court judgment in the case of Cheminvest Ltd (2015) 378 ITR 33 (Del.), we are of the considered view that where there is no exempt income is received during the relevant assessment year, the provisions of section 14A will not apply. In the instant case, on going through the P & L Account and the computation of income, we find that the assessee has not earned any dividend income from the investments during the year and no exemption was also claimed by it. Considering the same as well as respectfully following the decision of this Tribunal (supra), in our considered view, the decision of the CIT(A) is in accordance with the law and no need to interfere with it. Accordingly, grounds raised by the Revenue are dismissed.

7. In the result, appeal filed by the Revenue is dismissed

Pronounced in the open Court on 26<sup>th</sup> December, 2018.

**Sd/-**  
**(P. MADHAVI DEVI)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(S. RIFAUR RAHMAN)**  
**ACCOUNTANT MEMBER**

Hyderabad, Dated: 26<sup>th</sup> December, 2018

**OKK**

Copy to:-

1)	Income Tax Officer, Ward-16(2), R.No. 229, Block-B, 2 <sup>nd</sup> Floor, IT Towers, A.C. Guards, Hyderabad – 500 004.
2)	M/s. Nandini Industries India Pvt Ltd., 3-179/NR, Plot No.179, Guttalabegumpet, S1, Phase-II, Kavuri Hills, Madhapur, Hyderabad.
3)	The CIT(A)-4, Hyderabad
4)	The Pr. CIT-4, Hyderabad
5)	The DR, ITAT, Hyderabad
6)	Guard File