IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO. 24 OF 2015

The Commissioner of Income Tax-6 .. Appellant

v/s.

Mahindra Lifespace Developes Ltd.
formerly known as
M/s. Mahindra Gesco Developers Ltd. .. Respondent

Mr. A.R. Malhotra a/w Mr. N.A. Kazi for the appellant
Mr. Sanjiv M. Shah for the respondent

CORAM : S.V. GANGAPURWALA &
G.S. KULKARNI, J.J.

DATED : 14th JUNE, 2017

P.C.

1. This appeal relates to Assessment Year 2007-08.

2. The Revenue has filed the appeal raising the following questions of law :-

(a) Whether on the facts and in the circumstances of the case and in law, the Tribunal erred in law in remanding the matter back to the Assessing Officer to compute disallowance under section 14A of the Income Tax Act in terms of M/s. Godrej &

Boyce Mfg. Co. Ltd. Vs. DCIT (2010) 328 ITR 81 without appreciating that disallowance was, inter alia, made by the Assessing Officer out of interest expenditure in proportion of interest attributable to investment related to exempt income?

(b) Whether on the facts and in the circumstances of the case and in law, the Tribunal erred in implicitly holding by asking to compute disallowance u/s 14A following the decisions of the Hon'ble Bombay High Court in the case of M/s. Godrej & Boyce Mfg. Co. Ltd. V/s. DCIT, that Rule 8D of the Income Tax Rules will come into effect prospectively without appreciating the Rule is a machinery / procedural prescribing mechanism for computing quantum of expenditure relatable to earning exempt income for the purpose of disallowance under Section 14A of the Income Tax Act?

(c) Whether on the facts and in the circumstances of the case and in law, the Tribunal erred in misinterpreting that the provisions of sub-section 2 and sub-section 3 of Section 14A of the Act, inserted by the Finance Act, 2006 with effect from April, 2007 would apply prospectively to all pending proceedings?

(d) Whether on the facts and in the circumstances of the case and in law, the Tribunal erred in not appreciating that Rule 8D as inserted by Income Tax (Fifth Amendment) Rule, 2007 with effect from March, 2007, was procedural in nature and hence would apply retrospectively to all pending proceedings?

(e) Whether on the facts and in the circumstances of the case

and in law, the Tribunal erred in not appreciating that the disallowance as computed under Section 14A was in terms of the formula prescribed in Rule 8D of the Income Tax Rules, 1962?

3. Mr. Malhotra, learned Counsel for the appellant fairly concedes that the issues arising in the present appeal are covered by the judgment of this Court in the case of ***M/s. Godrej and Boyce Manufacturing Co. Ltd. Vs. DCIT, (2010), 328 ITR 81***.

4. In view of the fact that the issues involved in the present appeal are covered by the judgment of this Court in the case of M/s. Godrej & Boyce Manufacturing Co. Ltd. (supra), no substantial questions of law arise in the present appeal.

5. The appeal as such is dismissed. No costs.

(G.S. KULKARNI, J.) **(S.V. GANGAPURWALA, J.)**