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

INCOME TAX APPEAL NO. 678 OF 2015

The Commissioner of Income Tax - 4 … Appellant
Versus
M/s. Edelweiss Securities Pvt. Ltd. …Respondent

Mr. Ashok Kotangale, i/b Padma Divakar, for the Appellant.
Mr. Jitendra Jain, with Mr. Jas Sanghavi, i/b PDS Legal for the Respondent.

CORAM: M.S.SANKLECHA &
RIYAZ I. CHAGLA, JJ.
DATED: 22ND JANUARY 2018

PC:-

1. This Appeal under Section 260-A of the Income Tax Act, 1961 (the Act), challenges the order dated 13 August 2014 passed by the Income Tax Appellate Tribunal (the Tribunal). The impugned order dated 13 August 2014 is in respect of Assessment Year 2008-09.

2. The Revenue urges the following question of law for our consideration:

(a)"Whether on the facts and in the circumstance of the case and in law, the Tribunal is right in ignoring the method for computation of the disallowance as per provisions of Rule 8D u/s. 14A of the IT Act, 1961 for

earning exempt income?"

2. The impugned order of the Tribunal allowed the Respondent – Assessee's Appeal that no disallowance under Section 14A of the Act read with Rule 8D of the Income Tax Rules is warranted. This in view of the finding fact that the Respondent – Assessee was in possession of sufficient funds to make the investments and borrowed funds have not been utilized to earn the exempt income. Hence no disallowance of interest is permissible under Section 14A of the Act. Mr. Kotangale, the learned counsel for the Revenue very fairly states that the issue raised herein stands concluded in favour of the Respondent and against the Appellant – Revenue in the case of ***CIT Vs. Reliance Utilities & Power Ltd.***[1] and ***CIT Vs. HDFC Bank Ltd.***[2]

3. In view of the above, the question as framed do not give rise to any substantial question of law. Thus not entertained.

4. Accordingly, **Appeal dismissed.** No order as to costs.

(RIYAZ I. CHAGLA J.) **(M.S.SANKLECHA,J.)**

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1 313 ITR 340 (Bombay).

2 366 ITR 505.