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

INCOME TAX APPEAL NO.259 OF 2017

Principal Commissioner of Income Tax
(Central) - 4, Mumbai .... Appellant

versus

Man Infraprojects Ltd. ... Respondent

…....

- Mr.Suresh Kumar, Advocate for Appellant.

CORAM : AKIL KURESHI &
SARANG V. KOTWAL, JJ.
DATE : 09th APRIL, 2019.

P.C. :

1. This Appeal is filed by the revenue against the judgment of Income Tax Appellate Tribunal. Following question is presented for our consideration;

> *"Whether on the facts and circumstance of the case and in law, the ITAT, Mumbai was justified in deleting the disallowance of Rs.76,16,530/- made u/s 14A of the I.T. Act, by holding that no disallowance u/s 14A of the I.T. Act, is called for, once there is no exempt income received or receivable by the assessee during the relevant previous year?"*

2. Undisputed facts are that the Respondent-Assessee had not received any exempt income during the period relevant to the assessment year 2009-10, despite which Assessing Officer sought to invoke the provisions of section 14A of the Income Tax Act 1961 and made disallowance of the expenditure. Delhi High Court in case of ***Cheminvest Ltd. Vs. Commissioner of Income Tax, 378 ITR 33***, held that in such a situation, disallowance of the expenditure under section 14A of the Act would not be permissible. This decision was carried in Appeal filed by the Revenue before the Supreme Court. SLP has been dismissed. This Court, following the said decision in several cases, e.g. in ***Income Tax Appeal No.1672/16 in case of The Principal Commissioner of Income Tax-10 Vs. HSBC Invest Direct (India) Ltd.*** under order dated 04/02/2019 has dismissed the Revenue's Appeal.

3. Under such circumstances, this Appeal is dismissed.

(SARANG V. KOTWAL, J.) **(AKIL KURESHI, J.)**