

No sec. 14A disallowance unless there is receipt of exempt income during the year

Summary – The High Court of Punjab & Haryana in a recent case of Vardhman Chemtech (P.) Ltd., (the Assessee) held that Unless and until there is receipt of exempted income for concerned assessment year, section 14A is not attracted

Facts

- The assessee filed its return of income. The assessment was completed under section 143(3) by the Assessing Officer after making the different additions. Rs. 40.29 lakhs was disallowed under section 14A.
- On appeal, the Commissioner (Appeals) deleted the addition.
- On further appeal, the Tribunal dismissed the appeal of the revenue.
- On appeal to the High Court:

Held

- Section 14A provides for disallowance of expenditure in relation to income not 'includible' in total income.
- The Tribunal while relying upon the judgment of this Court in *CIT v. Lakhani Marketing Inc.* [\[2014\] 49 taxmann.com 257/226 Taxman 48 \(Punj. & Har.\) \(Mag.\)](#) had held that section 14A cannot be restored to in the year in which no exempt income had been earned. However, the revenue relied upon the CBDT Circular dated 11-2-2014 to contend that section 14A can be invoked even in the year in which no exempt income had been earned. Accordingly, the Tribunal had dismissed the appeal of the revenue holding that unless and until there is receipt of exempted income for the concerned assessment year, section 14A is not attracted.
- The Tribunal had, regarding the ground of deletion of disallowance amounting to Rs. 40.29 lakhs under section 14A, recorded that there was no infirmity in the order of the Commissioner (Appeals), who deleted the disallowance made following the decision of the jurisdictional High Court in the case of *Lakhani Marketing Inc. (supra)*. The argument of the revenue that the CBDT Circular No. 5/2014, dated 11-2-2014 stating that even in the absence of any exempt income disallowance under section 14A had to be made, is binding on the revenue authority, had no merit.
- No illegality or perversity could be demonstrated by the Revenue in the aforesaid findings recorded by the Tribunal.
- Thus, the substantial question of law as claimed is to be answered accordingly and the appeal is to be dismissed.