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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Date of Decision : 28th March, 2012.

+ ITA 178/2012

CIT Appellant
Through Mr. Sanjeev Sabharwal, sr. standing
counsel

versus

JAICO FINANCIAL SERVICES PVT LTD Respondent
Through Mr. Rajesh Dureja, Adv.

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE R.V. EASWAR

SANJIV KHANNA,J: (ORAL)

Notice.

Mr. Rajesh Dureja, Adv. accepts notice.

This appeal filed by the Revenue under Section 260A of the Income Tax Act, 1961 (Act, for short) impugns order dated 30.3.2011 passed by the Tribunal giving the following directions :

“4. We have considered the submissions of Ld. D.R. for the Revenue and have gone through the orders of authorities below. We find that the Assessing Officer



has made disallowance of ₹667.51 lacs on the basis of Rule 8D but as per the judgment of Hon'ble High Court of Bombay rendered in the case of Godrej & Boyce Manufacturing Pvt. Ltd., rule 8D is perspective (sic) and hence will apply w.e.f. Assessment Year 2008-09 and hence the said rule is not applicable in the present year being Assessment Year 2006-07. This aspect has been noted by the CIT(A) and thereafter, he has worked out disallowance at ₹62,67,575/- on the basis of proportion of dividend income and total profit from sale purchase of shares and F&O segment which has been taken by him at a figure of ₹1243.88 lacs as against dividend income of ₹91.69 lacs. There is no basis indicated by him for taking this figure on ₹1243.88 as total profit from sale purchase of shares & F&O segment. When the income declared by the assessee in its return of income is only ₹410.77 lacs, then how there can be profit from sale purchase of shares and F & O segment of ₹1243.88 lacs. The assessee has not appeared before us to explain this fact and hence, we deem it fit and proper to restore the matter back to the file of the Assessing Officer for a fresh decision in the light of this judgment of Hon'ble High Court of Bombay rendered in the case of Godrej & Boyce Manufacturing Pvt. Ltd. (supra). The Assessing Officer should pass necessary order as per law as per above discussion after providing adequate opportunity of being heard to the assessee.”

2. The appeal pertains to assessment year 2006-07. We may notice that Delhi High Court in ITA No. 687/2009 titled *Maxopp Investment Ltd. vs. CIT* on 18th November, 2011 decided a similar issue and has interpreted Section 14A of the Act. Directions and method of computation of deductions under Section 14A have been explained in the



said decision. It has been held that Rule 8D of the Income Tax Rules, 1962 is applicable from the assessment year 2008-09.

3. In all cases where the Tribunal has remanded this aspect/ question to the Assessing Officer either before or after the decision in *Maxopp Investment Ltd.* (supra) for a fresh consideration, the Assessing Officer is bound to comply with the direction and ratio expounded in *Maxopp Investment Ltd.* (supra). Decision of the jurisdictional High court is binding on the Assessing Officer and the assessee. Even when the matter is remanded referring to the decision of the Bombay High Court in *Godrej & Boyce Manufacturing Co. Ltd. v. Dy. CIT*, (2010) 328 ITR 81, the Assessing Officer should take into consideration and apply the ratio of the decision in *Maxopp Investment Ltd.* (Supra). There is no repugnancy or incongruity between the two decisions. The appeal is accordingly disposed of.

SANJIV KHANNA, J.

R.V.EASWAR, J.

MARCH 28, 2012

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