

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

"A" BENCH, CHENNAI

श्री बी.आर. बास्करन, लेखा सदस्य एवं श्री विकास अवस्थी, न्यायिक सदस्य केसमक्ष

BEFORE SHRI B.R. BASKARAN, ACCOUNTANT MEMBER AND
SHRI VIKAS AWASTHY, JUDICIAL MEMBER

आयकर अपील सं./ITA No. 2117/Mds/2013

निर्धारण वर्ष /Assessment Year : 2007-08

M/s Dadha Pharma Pvt. Ltd.,
No.268, Lloyds Road,
Royapettah, Chennai - 600 014.

v. The Assistant Commissioner of
Income Tax,
Company Circle – I(4),
Chennai - 600 034.

PAN : AAACD 1265 F

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri D. Anand, Advocate

प्रत्यर्थी की ओर से/Respondent by : Shri P. Radhakrishnan, JCIT

सुनवाई की तारीख/Date of Hearing : 22.01.2015

घोषणा की तारीख/Date of Pronouncement : 22.01.2015

आदेश / O R D E R

PER B.R. BASKARAN, ACCOUNTANT MEMBER:

The appeal filed by the assessee is directed against the order dated 27.09.2013, passed by Ld. Commissioner of Income Tax (Appeals)-I, Chennai and it relates to assessment year 2007-08. The only issue raised in the appeal relates to disallowance confirmed by the Ld. CIT(Appeals) under Section 14A of the Income-tax Act, 1961 (in short 'the Act').

2. The Ld.counsel appearing for the assessee submitted that the assessee had earned dividend income of ₹1,15,774/-. The Assessing Officer computed the disallowance in terms of Rule 8D of Income-tax Rules, 1962 though the same shall not be applicable for the year under consideration. However, the Ld. CIT(Appeals) has sustained the disallowance without appreciating the fact that the provisions of Rule 8D are not applicable for assessment year 2007-08. The Ld. counsel placed reliance on the decision rendered by the co-ordinate Bench of this Tribunal in the case of ACIT v. The Nungambakkam Saswatha Dhana Rakshaka Nidhi Ltd. in I.T.A. No. 1138/Mds/2013 by order dated 05.08.2013 and submitted that the co-ordinate Bench has held that the disallowance under Section 14A should be made at 2% of the dividend income. Accordingly, he prayed that the disallowance under Section 14A should be restricted to that extent only.

3. We heard the submissions of Ld. D.R. We also notice that the Hon'ble Madras High Court has also held in the case of M/s Simpson & Co. Ltd. v. DCIT in Tax Case (Appeal) No.2621 of 2006 dated 15.10.2012 that the disallowance made to the extent of 2% of the dividend income under Section 14A is reasonable in the year in which Rule 8D is not applicable. In view of this, we set aside the

order of the Ld. CIT(Appeals) and direct the Assessing Officer to restrict the disallowance to 2% of the dividend income earned by the assessee.

4. In the result, the appeal filed by the assessee is allowed.

Order pronounced in open court after conclusion of hearing on the 22nd day of January, 2015 at Chennai.

Sd/- (विकास अवस्थी) (Vikas Awasthy) न्यायिक सदस्य/Judicial Member	sd/- (बी.आर. बास्करन) (B.R. Baskaran) लेखा सदस्य/Accountant Member
--	---

चेन्नई/Chennai,
दिनांक/Dated, the 22nd January, 2015.

Kri.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)-I, Chennai
4. आयकर आयुक्त/CIT, Chennai-I, Chennai
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF.