

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCHES "C", MUMBAI

Before S/Shri G S Pannu, AM, & Saktijit Dey, JM

ITA No. 4341/Mum/2015
Assessment Year 2011-12

DCIT 14(1)(2) Mumbai	Vs.	Crescent Organics P Ltd, Windsor, CST Road Kalina, Santacruz (E), Mumbai 400 98 PAN : AAACC1690D
(Appellant)		(Respondent)

Appellant By : Shri Saurabh Kumar Rai (DR)
Respondent By : Shri Piyush Chhajed

Date of Hearing :23.03.2017

Date of Pronouncement : 31.03.2017

ORDER

Per Saktijit Dey, Judicial Member:

This is an appeal by the department against the order dated 22.04.2015 of learned CIT(A)-22, Mumbai for the A.Y. 2011-12.

2. Ground no.1 is against deletion of addition made on account of disallowance of expenditure u/s. 14A read with Rule 8D. Briefly, the facts are the assessee company is engaged in the business of consignment agents, indenting agent and trading in chemicals. For the year under consideration, assessee filed its return of income on 28.09.2011, declaring total income of Rs. 16,62,71,737/-. In the course of assessment proceedings the AO noticed that in the relevant previous year, the assessee has earned exempt income by way of dividend amounting to Rs.16,02,157/-. He called upon the assessee

to furnish the working of disallowance u/s. 14A read with Rule 8D. In reply, it was submitted by the assessee that no disallowance u/s. 14A is required to be made as the assessee has not incurred any expenditure for earning exempt income. However, the AO did not find merit in the submissions of the assessee and proceeded to compute disallowance u/s. 14A by applying Rule 8D and ultimately quantified the disallowance at Rs.36,52,252/-, which comprised of interest expenditure of Rs.29,20,473/- under Rule 8D(2)(ii) and administrative expenditure of Rs.7,33,107/- under rule 8D(2)(iii). The assessee challenged the disallowance by preferring appeal before the CIT(A).

3. The CIT(A) following his predecessor's order in the assessee's own case for A.Y. 2010-11, deleted the disallowance of interest under Rule 8D(2)(ii), whereas he directed the AO to compute the disallowance of administrative expenditure under Rule 8D(2)(iii) after excluding investments in shares in foreign companies, which do not give rise to exempt income. Being aggrieved of the aforesaid order of the learned CIT(A) department is before us.

4. We have considered the submissions of the parties and perused the materials on record. As seen from the impugned order of the CIT(A), he deleted the disallowance of interest expenditure relying upon the order of his predecessor in the assessee's own case for A.Y 2010-11, wherein, it was held that since the assessee had sufficient interest free surplus funds to make

investment, disallowance of interest expenditure cannot be made. It has also been brought to our notice that there is no change in the material facts in the impugned assessment year as the assessee was having sufficient interest free surplus fund available with it to take care of the exempt income yielding investment. That being the case, the CIT(A) was justified in deleting the addition made on account of disallowance of interest expenditure under Rule 8D(2)(ii). This ground is dismissed.

5. In ground no.2, the department has challenged deletion of addition of club expenses. Briefly, the facts are during the assessment proceedings, the AO noticed that the assessee has debited an amount of Rs.22,26,012/- towards expenditure incurred at clubs. Alleging that the assessee failed to establish with supporting evidence that club membership has resulted in promotion of its business and being of the opinion, such expenditure was not for the purpose of assessee's business, added back the amount to the income of the assessee. Being aggrieved of the disallowance assessee challenged the same before the CIT(A). The learned CIT(A) noticing that such expenditure was allowed by him in assessee's own case for A.Y. 2010-11 as well as earlier assessment years, allowed assessee's claim by deleting the addition made.

6. We have considered the submissions of the parties and perused the materials on record. The learned counsel appearing for both the parties have

agreed before us that this issue stands covered not only by the decision of the CIT(A) in A.Y. 2010-11 but also by the decision of the Tribunal in assessee's own case for A.Ys 2004-05 and 2005-06. On a perusal of the order of the ITAT in assessee's in ITA 365 & 366/Mum/2009 dated 28.02.2011, we have noted that similar expenditure claimed by the assessee was allowed. Respectfully, following the decision of the co-ordinate Bench in assessee's own case, we uphold the order of the CIT(A) and dismiss the ground raised by the department.

7. In the result, the appeal is dismissed.

The order is pronounced in the open court on 31.03.2017

Sd/-
(G S Pannu)
ACCOUNTANT MEMBER

Mumbai; Dated : 31st March, 2017

SA

Sd/-
(Saktijit Dey)
JUDICIAL MEMBER

Copy of the Order forwarded to :

1. The Appellant.
2. The Respondent.
3. The CIT(A), Mumbai.
4. The CIT
5. DR, 'C' Bench, ITAT, Mumbai

BY ORDER,

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(Assistant Registrar)
Income Tax Appellate Tribunal, Mumbai