

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES : B : NEW DELHI

BEFORE SHRI R.S. SYAL, VICE PRESIDENT
AND
MS SUCHITRA KAMBLE, JUDICIAL MEMBER

ITA Nos.6873 & 6874/Del/2015
Assessment Years : 2012-13 & to 2013-14

ACIT,
Central Circle-8 (Now CC-17),
ARA Centre, Jhandewalen,
New Delhi.

Vs. Sindhu Trade Links Ltd.,
13, 129, Transport Centre,
Punjabi Bagh,
New Delhi.

PAN: AACCB4137E

CO Nos.119 & 120/Del/2016
ITA Nos.6873 & 6874/Del/2015
Assessment Years : 2012-13 & to 2013-14

Sindhu Trade Links Ltd.,
13, 129, Transport Centre,
Punjabi Bagh,
New Delhi.

Vs. ACIT,
Central Circle-8 (Now CC-17),
ARA Centre, Jhandewalen,
New Delhi.

PAN: AACCB4137E

(Appellant)

(Respondent)

Assessee By : Shri S.K. Tulsian, Advocate
Department By : Ms Rachna Singh, CIT, DR

Date of Hearing : 14.09.2017
Date of Pronouncement : 15.09.2017

ORDER

PER BENCH:

These two appeals by the Revenue and equal number of Cross Objections by the assessee relate to the assessment years 2012-13 and 2013-14. Since common issue is raised in both the appeals, we are, therefore, proceeding to dispose them of by this consolidated order for the sake of convenience.

2. The facts relating to assessment year 2012-13 are that the assessee earned certain exempt income during the year from the investments made in equity shares. No disallowance was offered u/s 14A of the Income-tax Act, 1961 (hereinafter also called 'the Act'). The Assessing Officer computed such disallowance u/s 14A read with Rule 8D(2)(iii) at ½% of the average investments. This led to an addition of Rs.47,06,180/-. Similar addition was made for the assessment year 2013-14 at Rs.86,22,153/-. The assessee argued before the CIT(A) that only such investments should be considered for the purposes of

application of Rule 8D(2)(iii) from which exempt income has been earned and further such income is not from strategic investments. The ld. CIT(A) got convinced with the assessee's contention and restricted the addition to Rs.3,06,139/- for the assessment year 2012-13 and Rs.2,71,612/- for the assessment year 2013-14. The Revenue is aggrieved against the reduction in the disallowance made by the ld. CIT(A).

3. Having heard both the sides and perused the relevant material on record, we observe that the ld. CIT(A) has restricted the disallowance under Rule 8D(2)(iii) by considering only such investment which yielded exempt income, other than the income from strategic investments. The Hon'ble jurisdictional High Court in *ACB India Ltd. vs. ACIT (2015) 374 ITR 108 (Del)*, has held that value of tax exempt investments should be considered instead of total investments for adopting average value of investments of income which is not part of the total income. The effect of this decision is that while making disallowance under Rule 8D(2)(iii), it is only the average of those

investments which have yielded exempt income are to be taken into consideration and not the average of all investments as has been done by the AO in this case. Adverting to the facts of the instant case, it is seen that the Id. CIT(A) reduced the disallowance by ignoring the investments made in foreign companies not resulting into any income chargeable to tax and investments made in group concerns which were strategic in nature. This fact has also been admitted by the Id. DR in her note given after the conclusion of hearing.

4. The Hon'ble jurisdictional High Court in *Cheminvest vs. CIT (2015) 388 ITR 33 (Del)*, has held that no disallowance u/s 14A can be made in the case of strategic investments made in group concerns. Similar view has been taken by the Hon'ble Madras High Court in *CIT VS. Chettinad Logistics Pvt. Ltd. (2017) 98 CCH 0151 ChenHC*. Thus, it becomes clear that the Id. CIT(A) reduced such investments from the total amount of investments for the purpose of calculating ½% of disallowance under Rule 8D(2)(iii). In view of the above discussion, we

are satisfied that the ld. CIT(A) was justified in reducing the disallowance *pro tanto* for both the years under consideration.

5. The ld. AR did not press the Cross Objections by stating that these are only in support of the ld. CIT(A)'s order.

6. In the result, the appeals of the Revenue and the Cross Objections of the assessee are dismissed.

The order pronounced in the open court on 15.09.2017.

Sd/-

[SUCHITRA KAMBLE]
JUDICIAL MEMBER

Dated, September, 2017.

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Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT (A)
5. DR, ITAT

Sd/-

[R.S. SYAL]
VICE PRESIDENT

AR, ITAT, NEW DELHI.