

IN THE INCOME TAX APPELLATE TRIBUNAL
“C” BENCH : BANGALORE

BEFORE SHRI SUNIL KUMAR YADAV, JUDICIAL MEMBER AND
SHRI ARUN KUMAR GARODIA, ACCOUNTANT MEMBER

ITA Nos. 400 to 401/Bang/2016
Assessment Years : 2008 – 09 & 2011 – 12

Smt. Hema Ravichandar , No. 17, Ammini Moyenville Road, Langford Town, Bangalore – 560 025. PAN: AASPR0583P	Vs.	The ACIT, Circle – 2 (3) (1), Bangalore.
APPELLANT		RESPONDENT

Assessee by	:	Miss Kavitha P., Advocate
Revenue by	:	Shri Sumer Singh Meena, Addl. CIT (DR)

Date of hearing	:	12.10.2017
Date of Pronouncement	:	13.10.2017

ORDER

Per Shri A.K. Garodia, Accountant Member

Both these appeals are filed by the assessee and these are directed against two Separate orders of learned CIT (A) – 7, Bengaluru dated 27.01.2016 for Assessment Year 2008 – 09 and dated 31.12.2015 for A. Y. 2011 – 12. Both these appeals were heard together and are being disposed of by this common order for the sake of convenience.

2. In both these appeals, although several grounds are raised but the only grievance is about disallowance u/s 14A r.w.r. 8D Rs. 13,66,167/- in A. Y. 2008 – 09 and Rs. 46,83,958/- in A. Y. 2011 – 12.
3. Learned AR of the assessee submitted that the copy of Capital account of the assessee for the year ended on 31.03.2011 is available on page 45 of the Paper Book for A. Y. 2011 – 12 and as per the same, Rs. 54,36,625/- has been debited to Capital Account for Investment Advisory fees and Rs. 436,857/-

has been debited to Capital Account for DP Charges and therefore, to this extent, the assessee has not claimed deduction for expenses incurred in respect of investment activity which is akin to disallowance u/s 14A and therefore, any further disallowance u/s 14A is not justified. The bench raised a query about such debit in capital account in A. Y. 2008 – 09 and in reply, she submitted that the copy of capital account for that year is available on page 59 of the Paper Book for A. Y. 2008 – 09 but there is no such debit in that year. Learned DR of the revenue supported the order of CIT (A) in both years.

4. We have considered the rival submissions. We find that in A. Y. 2011 – 12, the assessee herself has made disallowance in respect of expenses incurred in respect of investment activity by debiting expenses to Capital Account of Rs. 54,36,625/- for Investment Advisory fees and Rs. 436,857/- for DP Charges total Rs. 58,73,482/- which is more than 0.5% of average investment worked out by the A. O. at Rs. 46,83,958/- and disallowed u/s 14A. Hence, in our considered opinion, making any further disallowance in this year u/s 14A is not justified. Hence, we delete the same.
5. But in A. Y. 2008 – 09, no such amount is debited to Capital Account and hence, it is inferred that the same is debited to P & L Account in that year and therefore, we find no infirmity in the order of CIT (A) in A. Y. 2008 – 09.
6. In the result, appeal filed by the assessee for A. Y. 2008 – 09 is dismissed and that for A. Y. 2011 – 12 is allowed.

Order pronounced in the open court on the date mentioned on the caption page.

Sd/-
(SUNIL KUMAR YADAV)
Judicial Member
Bangalore,

Sd/-
(ARUN KUMAR GARODIA)
Accountant Member

Dated, the 13th October, 2017.

/MS/

Copy to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR, ITAT, Bangalore.
6. Guard file

By order

Senior Private Secretary,
Income Tax Appellate Tribunal,
Bangalore.