

आय आधिकरण, "ए" न्यायपीठ, चेन्नई

APPELLATE TRIBUNAL 'A' BENCH, CHENNAI

श्री धुवु आर.एल रेड्डी, न्यायिक सदस्य एवं श्री ड.एस. सुंदर सिंह, लेखा सदस्य के समक्ष

**Before Shri Duvvuru RL Reddy, Judicial Member &  
Shri D.S. Sunder Singh Accountant Member**

आयकर अपील सं./I.T.A.No.3180/Mds/2016

प्रधान वर्ष/Assessment Year:2012-13

M/s. Coimbatore Hitech Infrastructure  
Private Limited, No. 365, Thudiyalur  
Road, Saravanampatti  
Coimbatore 641 035.  
**[PAN: AACCC5201G]**

Vs. The Deputy Commissioner of  
Income Tax,  
Corporate Circle 2,  
Coimbatore 641 018.

(अपीलाथ /Appellant)

(प्रत्यथ/Respondent)

अपीलाथ का ओर से / Appellant by : Shri A.S. Sriraman, Advocate

प्रत्यथ का ओर से/Respondent by : Shri Shiva Srinivas, JCIT

सुनवाई का तारख / Date of hearing : 29.03.2017

घोषणा का तारख /Date of Pronouncement : 09.06.2017

### आदेश / O R D E R

#### PER DUVVURU RL REDDY, JUDICIAL MEMBER:

This appeal filed by the assessee is directed against the order of the Id. Commissioner of Income Tax (Appeals) 1, Coimbatore dated 26.08.2016 relevant to the assessment year 2012-13. The only effective ground raised in the appeal of the assessee is that the Id. CIT(A) has erred in confirming the disallowance of made under section 14A of the Income Tax Act, 1961 [Act+ in short] r.w. Rule 8D of Income Tax Rules.

are that the assessee has filed its return of income on 26.09.2012 declaring total income of .43,74,300/-. The return filed by the assessee was processed under section 143(1) of the Act. The case of the assessee was selected for scrutiny and notice under section 143(2) of the Act dated 08.08.2013 was served. In response to the notice, the assessee has furnished all relevant documents and details. After considering the submissions of the assessee and verification of documents furnished by the assessee, the assessment was completed under section 143(3) of the Act assessing total income of the assessee at .57,04,100/- after making disallowance under section 14A r.w. Rule 8D.

3. The assessee carried the matter in appeal before the Id. CIT(A) and the Id. CIT(A) confirmed the disallowance after considering the submissions of the assessee as well as facts of the case.

4. On being aggrieved, the assessee is in appeal before the Tribunal. By relying on the judgement in the case of Redington (India) Ltd. v. Addl. CIT in T.C.A. No. 520 of 2016 dated 23.12.2016, wherein, the Hon'ble Jurisdictional High Court has held that when there is no exempt income there cannot be a disallowance of expenditure, the Id. Counsel for the assessee has submitted that the assessee has not earned any exempt income or incurred any expenditure or made any investment in the financial year relevant to the assessment year under consideration. It was further

quarily covered in favour of the assessee in view of the above judgement of the Hon<sup>ble</sup> Jurisdictional High Court and prayed that the disallowance made by the Assessing Officer should be deleted.

5. On the other hand, the Id. DR strongly supported the orders of authorities below.

6. We have heard both sides, perused the materials available on record and gone through the orders of authorities below. When the Assessing Officer has pointed out that the disallowance under section 14A r.w. Rule 8D is applicable, the assessee has submitted that the investments of .26,59,60,000/- appearing in the balance sheet was made in the assessment year 2008-09 and that source for the same was out of income receivable from the company M/s. India Land KGISL, Techpark P. Ltd. It was also submitted that the profits of the assessee was much more than the investments in the year in which it was made and no borrowed funds were utilized for the investments. Further, there was no exempt income earned in the relevant assessment year and therefore, strongly contended that no disallowance should be made. However, in view of the section 14A of the Act and by applying Rule 8D, the Assessing Officer worked out the expenditure component and disallowed .13,29,800/-. On appeal, the Id. CIT(A) confirmed the order of the Assessing Officer. Before us, the Id.

strongly contended that the assessee has not earned any exempt income and therefore, no disallowance shall be made in view of the decision in the case of Redington (India) Ltd. v. Addl. CIT (supra) and prayed for deleting the disallowance made on this count. We have perused the above case law relied on by the Id. Counsel for the assessee, wherein the Hon<sup>ble</sup> Jurisdictional High Court has held as under:

*“15. The exemption extended to dividend income would relate only to the previous year when the income was earned and none other and consequently the expenditure incurred in connection therewith should also be dealt with in the same previous year. Thus, by application of the matching concept, in a year where there is no exempt income, there cannot be a disallowance of expenditure in relation to such assumed income. (Madras Industrial Investment Corporation Ltd. v. CIT (225 ITR 802). The language of s. 14A(1) should be read in that context and such that it advances the scheme of the Act rather than distort it.*

*16. In conclusion, we are of the view that the provisions of s. 14A read with Rule 8D of the Rules cannot be made applicable in a vacuum i.e., in the absence of exempt income. The questions of law are answered in favour of the assessee and against the department and the appeal allowed. No costs.”*

6.1 Admittedly, in this case, the assessee has not earned any exempt income or made any investment and moreover, the investments appearing in the balance were made in the assessment year 2008-09. Respectfully following the above decision, wherein it was held that when there was no

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disallowance could be made, we set aside the order of the Id. CIT (A) on this issue and delete the disallowance made under section 14A r.w. Rule 8D. Thus, the ground raised by the assessee is allowed.

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

Order pronounced on the 09<sup>th</sup> June, 2017 at Chennai.

Sd/-  
(D.S. SUNDER SINGH)  
ACCOUNTANT MEMBER

Sd/-  
(DUVVURU RL REDDY)  
JUDICIAL MEMBER

Chennai, Dated, the 09.06.2017

Vm/-

आदेश का प्रतिलिपि अर्पण/Copy to: 1. अपीलार्थ/ Appellant, 2. प्रत्यर्थ/ Respondent, 3. आयकर आयुक्त (अपील)/CIT(A), 4. आयकर आयुक्त/CIT, 5. प्रभागीय प्रसिद्धि/DR & 6. गार्डफाईल/GF.