

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

'A' BENCH, CHENNAI

श्री एन.आर.एस. गणेशन, न्यायिक सदस्य एवं

श्री ए. मोहन अलंकामणी, लेखा सदस्य केसमक्ष

BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND
SHRI A. MOHAN ALANKAMONY, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.136/Mds/2017

निर्धारण वर्ष / Assessment Year : 2007-08

M/s Sundaram Industries Pvt. Ltd.,
Corporate Office,
211, South Veli Street,
Madurai – 625 001.

v. The Deputy Commissioner of
Income Tax,
Corporate Circle 2,
Madurai – 625 002.

PAN : AABCS 5320 H

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri S.A. Balasubramanyan, Advocate

प्रत्यर्थी की ओर से/Respondent by : Shri AR.V. Sreenivasan, JCIT

सुनवाई की तारीख/Date of Hearing : 27.07.2017

घोषणा की तारीख/Date of Pronouncement : 23.08.2017

आदेश / O R D E R

PER N.R.S. GANESAN, JUDICIAL MEMBER:

This appeal of the assessee is directed against the order of the Commissioner of Income Tax (Appeals)-1, Madurai, dated 07.10.2016 and pertains to assessment year 2007-08.

2. Shri S.A. Balasubramanyan, the Ld.counsel for the assessee, submitted that the Assessing Officer made an addition of

₹37,09,480/- under Section 14A of the Income-tax Act, 1961 (in short 'the Act'). According to the Ld. counsel, the assessee has made investment in subsidiary companies and sister concern for the purpose of business. The investment was made in the earlier assessment years and no expenditure was incurred. The Ld.counsel further submitted that the assessee invested its own surplus funds in the subsidiary companies and sister concern and received dividend income. Since no expenditure was incurred, according to the Ld. counsel, there cannot be any disallowance even on estimate basis. The Ld.counsel placed his reliance on the judgment of Apex Court in Godrej & Boyce Manufacturing Co. Ltd. v. DCIT (2017) 394 ITR 449. The Ld.counsel further submitted that the assessee is not maintaining any books of account for the purpose of investment made in subsidiary companies. Referring to the judgment of Apex Court in Godrej & Boyce Manufacturing Co. Ltd. (supra), the Ld.counsel submitted that the Assessing Officer has to satisfy himself with regard to accounts of the assessee that the assessee has incurred any expenditure. Such a satisfaction was not recorded by the Assessing Officer. Since the surplus funds were used for investment in earlier assessment years, the

CIT(Appeals) is not justified in confirming the order of the Assessing Officer .

3. On the contrary, Shri AR.V. Sreenivasan, the Ld. Departmental Representative, submitted that the assessee has earned ₹18,54,74,008/- as dividend income. However, the assessee has not claimed any expenditure for earning dividend income. The Ld. D.R. further submitted that the CIT(Appeals) by placing reliance on the order of this Tribunal in M/s Sri Vishnu Spinning Mills in I.T.A. No.1592/Mds/2004 dated 10.03.2006 confirmed the order of the Assessing Officer.

4. We have considered the rival submissions on either side and perused the relevant material available on record. The assessee claims before this Tribunal that no borrowed funds were used for making investment and the investment was made only in sister concern and subsidiary companies. From the material available on record, it appears that the assessee has borrowed loan from the banks / financial institutions. The judgment of Apex Court in Godrej & Boyce Manufacturing Co. Ltd. (supra) is a recent one. Both the authorities below had no occasion to consider the same. Since the assessee claims that only surplus funds were used in making investment, this Tribunal is of the considered opinion that the matter

needs to be re-examined by the Assessing Officer to find out what were the surplus funds available on the date of investment made by the assessee. Moreover, the judgment of Apex Court in Godrej & Boyce Manufacturing Co. Ltd. (supra) also needs to be considered by both the authorities. Accordingly, the orders of the authorities below are set aside and the entire disallowance made by the Assessing Officer under Section 14A of the Act is remitted back to the file of the Assessing Officer. The Assessing Officer shall re-examine the matter afresh and bring on record the available surplus funds with the assessee on the date of investment and the details of the loan borrowed and thereafter decide the issue in accordance with law in the light of the judgment of Apex Court in Godrej & Boyce Manufacturing Co. Ltd. (supra).

5. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced on 23rd August, 2017 at Chennai.

sd/-

(ए. मोहन अलंकामणी)

(A. Mohan Alankamony)

लेखा सदस्य/Accountant Member

चेन्नई/Chennai,

दिनांक/Dated, the 23rd August, 2017.

Kri.

sd/-

(एन.आर.एस. गणेशन)

(N.R.S. Ganesan)

न्यायिक सदस्य/Judicial Member

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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