

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.2257/Mds/2016

निर्धारण वर्ष / Assessment Year : 2010-11

The Deputy Commissioner of Income  
Tax,

Corporate Circle – 5(2),  
Chennai - 600 034.

(अपीलार्थी/Appellant)

v. M/s Polaris Financial  
Technology Ltd.,  
Polaris House, 244, Anna Salai,  
Chennai - 600 006.

PAN : AAACP 4341 E

(प्रत्यर्थी/Respondent)

आयकर अपील सं./ITA No.2315/Mds/2016

निर्धारण वर्ष / Assessment Year : 2010-11

M/s Polaris Consulting and Services  
Ltd. (Formerly known as Polaris  
Financial Technology Ltd.),  
Polaris House, 244, Anna Salai,  
Chennai - 600 006.

(अपीलार्थी/Appellant)

v. The Deputy Commissioner of  
Income Tax,  
Corporate Circle – 5(2),  
Chennai - 600 034.

(प्रत्यर्थी/Respondent)

निर्धारिती की ओर से /Assessee by : Shri S. Balasubramanian, CIT

राजस्व की ओर से /Revenue by : Sh. R. Vijayaraghavan, Advocate

सुनवाई की तारीख/Date of Hearing : 04.05.2017

घोषणा की तारीख/Date of Pronouncement : 29.06.2017

**आदेश / O R D E R**

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

Both the appeals of the Revenue and assessee are directed against the very same order of the Commissioner of Income Tax (Appeals)-3, Chennai, dated 31.03.2016 and pertain to assessment year 2010-11. Therefore, we heard both the appeals together and disposing of the same by this common order.

2. First, let's take Revenue's appeal in I.T.A. No.2257/Mds/2016.

3. The only issue arises for consideration is exclusion of expenditure incurred by the assessee in foreign currency towards communication expenses, project travel, software development charges, etc.

4. We have heard Shri S. Balasubramanian, the Ld. Departmental Representative and Sh. R. Vijayaraghavan, the Ld.counsel for the assessee. The CIT(Appeals) directed the Assessing Officer to exclude communication expenses, project cost, software development charges and overseas project expenses incurred in foreign currency from the total turnover since the same

were excluded from the export turnover. The CIT(Appeals), in fact, placed his reliance on the decision of this Tribunal in Visteon Technical & Services Centre (P) Ltd. v. ACIT (24 taxmann.com 353). We have carefully gone through the provisions of Section 10A of the Income-tax Act, 1961 (in short 'the Act'). For the purpose of maintaining parity, the factors which were excluded from the export turnover should also be excluded from total turnover. Since, admittedly, the expenses incurred in foreign currency towards communication expenses, project travel cost, software development charges, overseas project expenses were excluded from export turnover, the same shall also be excluded from total turnover. Therefore, the CIT(Appeals) has rightly directed the Assessing Officer to exclude the same from total turnover. Hence, this Tribunal do not find any reason to interfere with the order of the lower authority and accordingly the same is confirmed.

5. Now coming to the assessee's appeal in I.T.A. No.2315/Mds/2016, the first issue arises for consideration is disallowance made by the Assessing Officer under Section 14A of the Act.

6. We have heard Sh. R. Vijayaraghavan, the Ld.counsel for the assessee and Shri S. Balasubramanian, the Ld. Departmental Representative. The Assessing Officer found that the assessee earned dividend income of ₹14,76,75,464/- which was exempted from taxation. The Assessing Officer computed the disallowance by applying provisions of Rule 8D(2) of the Income-tax Rules, 1962. The Assessing Officer found that the assessee has paid interest on borrowed funds to the extent of ₹47,41,678/-. The Assessing Officer also found that the investment during the year rose from opening balance of ₹3,21,68,40,000/- to a closing balance of ₹5,17,93,70,000/-. The Assessing Officer further found that the value of asset rose to ₹1,84,18,32,000 from ₹1,76,96,30,000/-. Therefore, by applying Rule 8D, the Assessing Officer made addition of ₹1,71,68,777/- under Section 14A of the Act being the proportionate expenditure for earning the exempted income. The main contention of the assessee before this Tribunal is that no expenditure was incurred for earning dividend income, therefore, there cannot be any disallowance.

7. We have carefully gone through the provisions of Section 14A of the Act and Rule 8D of the Income-tax Rules, 1962.

Whenever the Assessing Officer is not satisfied that the claim made by the assessee towards expenditure for earning the income is not correct, he can recompute the same by applying Rule 8D. This Tribunal is of the considered opinion that computation of expenditure under Rule 8D is mandatory. The method of computation by applying Rule 8D is not in dispute. Therefore, this Tribunal do not find any reason to interfere with the order of the lower authority and accordingly the same is confirmed.

8. The assessee has also raised one more ground with regard to exclusion of expenditure incurred in foreign currency while computing deduction under Section 10A of the Act.

9. This issue was considered by this Tribunal in the earlier part of this order in Revenue's appeal. This Tribunal specifically found that both export turnover and total turnover shall be of the same factor, therefore, when the expenditure incurred in foreign currency is not included in the total turnover, the same cannot also be included in the export turnover. In other words, there should be a parity between export turnover and total turnover. Hence, whatever expenditure incurred is not included in the export turnover, the same cannot form part of total turnover also.

10. In the result, both the appeals filed by the Revenue as well as the assessee are dismissed.

Order pronounced on 29<sup>th</sup> June, 2017 at Chennai.

sd/-

(ए. मोहन अलंकामणी)

(A. Mohan Alankamony)

लेखा सदस्य/Accountant Member

sd/-

(एन.आर.एस. गणेशन)

(N.R.S. Ganesan)

न्यायिक सदस्य/Judicial Member

चेन्नई/Chennai,

दिनांक/Dated, the 29<sup>th</sup> June, 2017.

Kri.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. निर्धारिती / Assessee
2. Assessing Officer
3. आयकर आयुक्त (अपील)/CIT(A)-3, Chennai
4. Principal CIT, Chennai-5, Chennai
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF.