

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL  
'C' BENCH, CHENNAI

श्री एन.आर.एस. गणेशन, न्यायिक सदस्य एवं श्री एस जयरामन, लेखा सदस्य केसमक्ष

BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND  
SHRI S. JAYARAMAN, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.1047/Mds/2017

निर्धारण वर्ष / Assessment Year : 2010-11

The Deputy Commissioner of  
Income Tax,  
Corporate Circle 2(1),  
Chennai - 600 034.

v. M/s Ennore Tank Terminals Pvt. Ltd.,  
"Neeladri", 3<sup>rd</sup> floor,  
No.9, Cenotaph Road, Alwarpet,  
Chennai - 600 018.

(अपीलार्थी/Appellant)

PAN : AABCE 3918 K

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri Asish Tripathy, JCIT

प्रत्यर्थी की ओर से/Respondent by : Shri P. Ranga Ramanujam, CA

सुनवाई की तारीख/Date of Hearing : 14.09.2017

घोषणा की तारीख/Date of Pronouncement : 18.09.2017

### **आदेश /O R D E R**

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

This appeal of the Revenue is directed against the order of the Commissioner of Income Tax (Appeals) – 9, Chennai, dated 12.01.2017 and pertains to assessment year 2010-11.

2. Shri Asish Tripathy, the Ld. Departmental Representative, submitted that the only issue arises for consideration is disallowance made by the Assessing Officer under Section 14A of

the Income-tax Act, 1961 (in short 'the Act'). The Assessing Officer computed the disallowance by applying the provisions of Rule 8D of Income-tax Rules, 1962. The Ld. D.R. further submitted that the assessee has earned ₹13,62,200/- which was exempted from taxation. According to the Ld. D.R., while referring to Rule 8D, the Assessing Officer found that the assessee has not incurred any direct expenditure. The Assessing Officer has also found that the assessee has invested ₹5,50,48,412/-, 0.5% of the same comes to ₹2,75,242/- as per limb (iii) of Rule 8D(2) of Income-tax Rules, 1962. According to the Ld. D.R., the Assessing Officer computed the interest at ₹51,34,950/-. The total disallowance computed by the Assessing Officer under Section 14A read with Rule 8D is ₹54,10,192/-. Even though the CIT(Appeals) has not found any error in the computation of disallowance under Rule 8D, according to the Ld. D.R., he directed the Assessing Officer to restrict the disallowance to the extent of the income earned, i.e. ₹13,62,200/-. Placing reliance on the CBDT circular in Circular No.21/2015, the Ld. D.R. submitted that the disallowance has to be made under Rule 8D(2) of Income-tax Rules, 1962, therefore, the CIT(Appeals)

is not justified in restricting the disallowance to the extent of the exempted income earned by the assessee.

3. On the contrary, Shri P. Ranga Ramanujam, the Ld. representative for the assessee, submitted that the CIT(Appeals) by placing reliance on the order of this Tribunal in Southern Petrochemical Industries v. DCIT (993 TTJ 161), the judgment of Delhi High Court in Joint Investments Pvt. Ltd. v. CIT (2015) 372 ITR 694 and the judgment of Punjab & Haryana High Court in Empire Package Pvt. Ltd. in I.T.A. No.415 of 2015 dated 12.01.2016, found that the disallowance has to be restricted to the extent of exempted income earned by the assessee.

4. We have considered the rival submissions on either side and perused the relevant material available on record. The Assessing Officer computed the disallowance by applying Rule 8D(2) of Income-tax Rules, 1962 at ₹54,10,192/-. The CIT(Appeals) by following the judgment of Delhi High Court in Joint Investments Pvt. Ltd. (supra) and judgment of Punjab & Haryana High Court in Empire Package Pvt. Ltd. (supra) and the order of this Tribunal in Ambattur Clothing Ltd. in I.T.A. No.1643/Mds/2014 dated

28.12.2015, directed the Assessing Officer to restrict the disallowance to the extent of exempted income earned by the assessee. Therefore, this Tribunal do not find any reason to interfere with the order of the lower authority and accordingly the same is confirmed.

5. In the result, the appeal filed by the Revenue is dismissed.

Order pronounced on 18<sup>th</sup> September, 2017 at Chennai.

sd/-

(एस जयरामन)

(S. Jayaraman)

लेखा सदस्य/Accountant Member

sd/-

(एन.आर.एस. गणेशन)

(N.R.S. Ganesan)

न्यायिक सदस्य/Judicial Member

चेन्नई/Chennai,

दिनांक/Dated, the 18<sup>th</sup> September, 2017.

Kri.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)-9, Chennai-34
4. Principal CIT- 2, Chennai
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF.