

आय अधकरण, "बी" ढयायपीठ, चेन्नई  
APPELLATE TRIBUNAL 'B' BENCH, CHENNAI

ढी चं पूजार, लेखा सदय एवं ढी धुवु आर.एल रेडी, ढयायक सदय के सम  
Before Shri Chandra Poojari, Accountant Member &  
Shri Duvvuru RL Reddy, Judicial Member

आयकर अपील सं./I.T.A.No.722/Mds/2016

ढनधारण वष/Assessment Year:2011-12

M/s. Thermodyne Technologies Pvt.  
Ltd., 18, Ayodhya Colony, Velacherry,  
Chennai 600 042.  
[PAN: AA ACT3393E]

Vs. The Deputy Commissioner of  
Income Tax,  
Company Circle III(2)  
Chennai.

(अपीलाथ /Appellant)

(ढयथ/Respondent)

अपीलाथ क ओर से / Appellant by : Shri S. Sridhar, Advocate

ढयथ क ओर से/Respondent by : Shri Supriyo Pal, JCIT

सुनवाई क ताराख/ Date of hearing : 04.05.2017

घोषणा क ताराख /Date of Pronouncement : 12.07.2017

### 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) 11, Chennai dated 25.01.2016 relevant to the assessment year 2011-12. The only effective ground raised in the appeal of the assessee is that the Id. CIT(A) has erred in confirming disallowance made under section 14A of the Income Tax Act, 1961 [Act+in short].

are that the assessee is engaged in the business of manufacturing and supply of industrial boilers. The assessee has filed its return admitting total income of ₹.1,87,67,470/-. The return filed by the assessee was processed under section 143(1) of the Act. Thereafter, the case of the assessee was selected for scrutiny and notice under Section 143(2) dated 08.08.2013 was issued. After considering the submissions of the assessee and materials available on record, the assessment under section 143(3) of the Act was completed on 26.03.2014 assessing total income of the assessee at ₹.2,15,96,048/- after making various additions.

3. The assessee carried the matter in appeal before the Id. CIT(A) against the disallowances made by the Assessing Officer. After considering the submissions of the assessee, the Id. CIT(A) partly allowed the appeal filed by the assessee.

4. On being aggrieved, the assessee is in appeal before the Tribunal challenging the confirmation of disallowance made under section 14A of the Act.

5. We have heard both sides, perused the materials available on record and gone through the orders of authorities below. The investment portfolio of the assessee for the year stands at ₹.22,08,337/- out of which the assessee has earned an income which is not includible in the total income. On perusal

[Click Here to upgrade to  
Unlimited Pages and Expanded Features](#)

profit and loss account, the Assessing Officer has noticed that against substantial increase in investments, there was a corresponding increase in borrowed funds as well as the interest outflow, which indicates that there is a direct nexus between the increase in investments and borrowed capital with interest relating such investments being charged to profit and loss account. The assessee has not admitted any expenditure against the earning of exempt income. Considering the volume and portfolio of investment, the Assessing Officer was of the opinion that the assessee should have incurred expenditure in the form of managerial, administrative and monitoring nature, he proceed to determine the expenditure component under the provisions of section 14A r.w. Rule 8D and accordingly disallowed .11,34,836/-.

6. Before the Id. CIT(A), it was the submissions of the assessee that the source for the investment was not out of the interest bearing loan funds and the Assessing Officer has included bank charges as bank interest while quantifying the disallowance under section 14A of the Act. Further, it was submitted that the Assessing Officer has not considered the disallowance to the extent already offered by the assessee itself. After considering the submissions of the assessee, the Id. CIT(A) has directed the Assessing Officer to exclude the bank charges and to give credit for the disallowance

and upheld the balance disallowance made under section 14A of the Act.

7. Before us, the Id. Counsel for the assessee has submitted that the assessee has surplus funds for making investments and borrowed funds were utilized only in the capital field. He further submits that there was no increase in the investment as comparing to the previous assessment year and moreover, the assessee has voluntarily admitted expenditure incurred, which was not taken into account and therefore he prayed for deleting the disallowance made under section 14A of the Act.

8. As per the details available in the assessment order, the investment made by the assessee as on 31.03.2010 was ₹.3,27,24,052/-, whereas, the investments as on 31.03.2011 was only ₹.2,59,32,389/- and therefore, it cannot be said that there is substantial increase in the investments. On perusal of the Balance Sheet, we find that the assessee has Reserves and Surplus to the extent of ₹.9,47,90,210/-, whereas, the investment in the current year was only ₹.2,59,32,389/-, which was much below the reserves and surplus owned by the assessee. Further, from the orders of authorities below, the actual exempt income earned by the assessee was not available. The Id. CIT(A) has not disputed the submissions of the assessee that the assessee has voluntarily admitted expenditure for earning exempt income and directed the Assessing Officer to reduce it from the total disallowance.

[Click Here to upgrade to  
Unlimited Pages and Expanded Features](#)

mitted expenditure for earning exempt income and not accepted by the Assessing Officer, he is suppose to record reasons for not accepting the expenditure admitted by the assessee as per sub-section 2 to section 14A of the Act. In this case, the Assessing Officer has stated in the assessment order that the assessee has not admitted expenditure for earning exempt income. The purpose of investments made by the assessee was also not available on record. Under the above facts and circumstances, we remit the matter back to the file of the Assessing Officer, who shall, after verification of records/details furnished by the assessee decide the issue afresh and pass speaking order in accordance with law after allowing opportunity of hearing to the assessee.

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

Order pronounced on the 12<sup>th</sup> July, 2017 at Chennai.

Sd/-  
(CHANDRA POOJARI)  
ACCOUNTANT MEMBER

Sd/-  
(DUVVURU RL REDDY)  
JUDICIAL MEMBER

Chennai, Dated, the 12.07.2017  
Vm/-

आदेश क० प्रतिलिपि अर्पण/Copy to: 1. अपीलार्थी/Appellant, 2. प्रत्यर्थी/Respondent, 3. आयकर आयुक्त (अपील)/CIT(A), 4. आयकर आयुक्त/CIT, 5. प्रभागीय प्रत्यक्ष/DR & 6. गाडफाईल/GF.