

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH: CHENNAI

श्री अब्राहम पी. जॉर्ज, लेखासदस्य एवं
श्री जॉर्ज माथन, न्यायिक सदस्य के समक्ष

BEFORE SHRI ABRAHAM P.GEORGE, ACCOUNTANT MEMBER AND
SHRI GEORGE MATHAN, JUDICIAL MEMBER

आयकर अपील सं./ITA No.331/Mds/2017

निर्धारण वर्ष /Assessment Year: 2012-13

The Dy. Commissioner of-
Income Tax,
Corporate Circle-4(1),
Chennai.

Vs. M/s.Lucas TVS Ltd.,
Aalim Centre,
No.82, Dr.Radhakrishnan
Salai, Mylapore,
Chennai-600 004.

(अपीलार्थी/ **Appellant**)

[PAN: AAACL 3763 E]

(प्रत्यर्थी/ **Respondent**)

अपीलार्थी की ओर से/ Appellant by

: Mr.M.Palanichamy, JCIT

प्रत्यर्थी की ओर से /Respondent by

: Mr.Saroj Kumar Parida, Adv.

सुनवाई की तारीख/Date of Hearing

: 09.10.2017

घोषणा की तारीख /Date of Pronouncement

: 09.10.2017

आदेश / O R D E R

PER GEORGE MATHAN, JUDICIAL MEMBER:

ITA No.331/Mds/2017 is an appeal filed by the Revenue against the Order of the Commissioner of Income Tax (Appeals)-8, Chennai, in ITA No.65/2015-16 dated 21.11.2016 for the AY 2012-13.

2. Mr.M.Palanichamy, JCIT, represented on behalf of the Revenue and Mr.Saroj Kumar Parida, Adv. represented on behalf of the assessee.

3. It was submitted by the Ld.DR that the only issue in the Revenue's appeal was against the action of the Ld.CIT(A) in directing the AO to re-compute the disallowance u/s.14A r.w.r.8D and to consider 0.5% of the average of the value of the investment, the income from which does not or shall not form part of the total income. It was a submission that Ld.CIT(A)'s direction to re-compute the disallowance u/s.14A r.w.r.8D(2)(iii) was erroneous. It was a submission that the order of the Ld.CIT(A) was liable to be reversed.

4. In reply, the Ld.AR submitted that the issue was squarely covered by the decision of the Co-ordinate Bench of this Tribunal in the case of M/s.Computer Age Management Services (P) Ltd., in ITA No.1259 to 1261/Mds/2014 dated 28.11.2014 wherein Para No.11 & 12 which has been held as follows:

11. The Kolkata Bench of this Tribunal in REI Agro Ltd. Vs. DCIT (supra) held that disallowance under section 14A read with Rule 8D can be made only by taking into consideration the investments which has given rise to such income which does not form part of the total income. While holding so, the Tribunal observed as under:-

"8. In respect of provisions of Rule 8D(2) (iii) which is the subject matter of the assessee's appeal in the assessee's hand, a perusal of the said provision shows that what is disallowable under Rule 8D (2) (iii) is the amount equal to ½ percentage of the average value of the investment the income from which does not or shall not form part of the total income. Thus, under sub-clause (iii) what is disallowed is ½ percentage of the numerator B in Rule 8D(2)(ii). Again this is to be calculated in the same line as mentioned earlier in respect of Numerator B in Rule 8D (2) (ii) of the Act.

8.1 Thus, not all investments become the subject matter of consideration when computing disallowance under section 14A read with rule 8D. The disallowance under section 14A read with rule 8D is to be in relation to the income which does not form part of the total income and this can be done only by taking into consideration the investment which has given rise to this income which does not form part of the total income. Under the circumstances, the computation of the disallowance under section 14A read with rule 8D(2) (iii) which is issue in the assessee's appeal is restored to the file of the Assessing Officer for re-computation

in line with the direction given above. No disallowance under section 14A read with rule 8D(2)(ii) and (ii) can be made in this case.

12. Following the said decision, we direct the Assessing Officer to re-compute the disallowance under Rule 8D(2)(iii) by taking the amount equal to ½ percentage of the average value of the investment which has given rise to the income which does not form part of total income.

5. We have considered the rival submissions. As it is noticed that the issue is squarely covered by the decision of the Co-ordinate Bench of this Tribunal in the case of M/s.Computer Age Management Services (P) Ltd., referred to supra which has been extracted, respectfully following the decision of the Co-ordinate Bench of this Tribunal, the findings of the Ld.CIT(A) on this issue stands confirmed.

6. In the result, the appeal filed by the Revenue stands dismissed.

Order pronounced in the Open Court on October 09, 2017, at Chennai.

Sd/-

(अब्राहम पी. जॉर्ज)

(ABRAHAM P GEORGE,)

लेखा सदस्य/ACCOUNTANT MEMBER

Sd/-

(जॉर्ज माथन)

(GEORGE MATHAN)

न्यायिक सदस्य/JUDICIAL MEMBER

चेन्नई/Chennai,

दिनांक/Dated: October 09, 2017.

TLN

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

1. अपीलार्थी/Appellant

2. प्रत्यर्थी/Respondent

3. आयकर आयुक्त (अपील)/CIT(A)

4. आयकर आयुक्त/CIT

5. विभागीय प्रतिनिधि/DR

6. गार्ड फाईल/GF