

IN THE INCOME TAX APPELLATE TRIBUNAL
“F” Bench, Mumbai
Before Shri B.R. Baskaran (AM) & Shri Ravish Sood(JM)
I.T.A. No. 5700/Mum/2016 (Assessment Year 2012-13)

Tata Projects Limited Hiranandani Knowledge Park 11 th Floor, Technology Street Powai Mumbai-400 076. PAN : AA ACT4119L (Appellant)	Vs.	DCIT Range 2(3)(1) Aayakar Bhavan M.K. Road Mumbai-400 020. (Respondent)
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Assessee by	Shri Rajan Vora
Department by	Ms. Pooja Swaroop
Date of Hearing	2.11.2017
Date of Pronouncement	8.11.2017

ORDER

Per B.R. Baskaran (AM) :-

The assessee has filed this appeal challenging the order dated 10.6.2016 passed by the learned CIT(A)-6, Mumbai and it relates to A.Y. 2012-13. The assessee is aggrieved by the decision of the learned CIT(A) in respect of disallowance made u/s. 14A of the Act for computing income under normal provisions of the Act and also for computing book profit u/s. 115JB of the Act.

2. We heard the parties and perused the record. The assessee is engaged in the business of undertaking contract works on turnkey basis. During the year under consideration, the assessee earned exempt dividend income of ₹ 1709.53 lakhs and it made suo-moto disallowance of ₹ 17.93 lakhs under section 14A of the Act. The Assessing Officer noticed that the assessee did not follow Rule 8D of the I.T. Rules. Accordingly he computed disallowance at 92.20 lakhs as per Rule 8D(2)(iii) of the I.T. Rules and added the difference amount of ₹ 72.80 lakhs to the total income of the assessee as well as to the book profit computed u/s. 115JB of the Act. The learned CIT(A) noticed that the assessee had contended before the ITAT in A.Y. 2010-11 & 2011-12 that the disallowance worked out by the Assessing Officer has exceeded the actual expenditure and

accordingly contended that the disallowance should not exceed actual expenditure. Accordingly, the Tribunal had restored the matter to the file of the Assessing Officer in A.Y. 2010-11 & 2011-12. Accordingly the learned CIT(A) directed the Assessing Officer to follow the direction given by Hon'ble ITAT given for A.Y. 2010-11 on this issue.

3. Learned AR submitted that the actual expenditure allocated to the exempt income by the assessee is given at page No. 53 of the paper book and further submitted that the Assessing Officer may be directed to follow the decision rendered by Hon'ble ITAT in A.Y. 2010-11.

4. We heard learned Departmental Representative and perused the record. We noticed that the learned CIT(A) had already directed the Assessing Officer to follow the direction given by ITAT in A.Y. 2010-11 and hence we are of the view that the direction so given by the learned CIT(A) on this issue does not call for any interference.

5. Learned AR submitted that the Assessing Officer has adopted figures worked out by him u/s. 14A of the Act for making addition to the net profit for the purpose of computing book profit u/s. 115JB of the Act. By placing reliance on the Delhi Special bench decision rendered in the case of ACIT Vs. Vireet Investment Pvt. Ltd. & Ors. (50 CCH 145), learned AR submitted that the amount of disallowance computed u/s. 14A could not be considered for 115JB of the Act.

6. We heard learned Departmental Representative on this issue and perused the record. In our view this issue also requires fresh examination at the end of the Assessing Officer in the light of the decision rendered by Special Bench Delhi ITAT in the case of Vireet Investment Pvt. Ltd. (supra) for examining the same afresh. Accordingly we restore this issue to the file of the AO with the direction to decide the same afresh in the light of special bench decision referred supra.

7. In the result, appeal filed by the assessee is treated as allowed for statistical purposes.

Order has been pronounced in the Court on 8.11.2017.

Sd/-
(RAVISH SOOD)
JUDICIAL MEMBER

Sd/-
(B.R.BASKARAN)
ACCOUNTANT MEMBER

Mumbai; Dated : 8/11/2017

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT
5. DR, ITAT, Mumbai
6. Guard File.

//True Copy//

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BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai