

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./ I.T.A. No. 1179/Mds/2017

निर्धारण वर्ष/Assessment Year : 2013-14

Ms. Visalakshi Kannan,
Thiagarajar Mills Premises,
Kappalur,
Madurai 625 008.

Deputy Commissioner of Income Tax,
Vs. International Taxation,
Madurai – 625 002.

[PAN: AAGPV 2536C]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri. R. Srinivasan, Advocate

प्रत्यर्थी की ओर से/Respondent by

: Shri. Asish Tripathi, JCIT

सुनवाई की तारीख/Date of Hearing

: 10.08.2017

घोषणा की तारीख/Date of Pronouncement

: 14.08.2017

आदेश / O R D E R

PER S. JAYARAMAN, ACCOUNTANT MEMBER:

The assessee filed this appeal against the order of the Commissioner of Income Tax (Appeals)-16, Chennai in ITA No. 38/CIT(A)-16/2016-17 dated 21.03.2017.

2. Ms. Visalakshi Kannan, the assessee, a non-resident settled in USA, earned income from interest receipts from loans and advances, banks and investment dividend income, share of profit, profit on sale of investments etc. In the assessment made for assessment year 2013-14, the Assessing Officer held that the assessee earned a total income of Rs. 1,16,81,976/- out of which, Rs. 69,79,139/- is related to dividend income earned from shares and units of mutual funds which the assessee claimed as an exempt income. Applying section 14A, r.w.r. 8D2(iii), the AO held that Rs. 5,21,480/- should be the expenditure incurred in relation to income not includible in total income and hence added to the income of the assessee. Aggrieved, the assessee filed an appeal before the CIT(A) and CIT(A) dismissed the appeal.

3. Against that order, the assessee filed this appeal, inter alia, with the following grounds:

"2. The Commissioner of Income Tax (Appeals) erred in dismissing the Appeal without there being any material to sustain the addition made by the Assessing Officer.

3. The Commissioner of Income Tax (Appeals) failed to note that the Assessing Officer has not recorded any satisfaction as to how the claim of the Appellant that no expenditure has been incurred against dividend income is not acceptable and consequently the addition is not sustainable.

4. The Commissioner of Income Tax (Appeals) failed to note that it is obviously clear from the accounts that no expenditure has been incurred or claimed even against the

taxation Income admitted and the gross income has been offered for taxation and so question of any disallowance or application of section 14A is not attracted in this case.

5. The Commissioner of Income Tax (Appeals) erred in relying on the cases mentioned in page 3 of his order as the facts and issues in those cases are totally different from the facts and issue in this case."

4. The AR submitted the assessee's receipts and the head in which the income was admitted as under:

Sl.No	Nature of Income	Amount Rs	Head of Income
1.	Interest Receipts from Loans and advances	7,53,721	Business Income
2.	Interest receipts from banks and investments	1,56,411	Other sources
3.	Dividend Income	69,79,139	Exempted u/s. 10
4.	Profit on sale of Investments	53,82,309	Considered under capital gain
5.	Share of profit from partnership firm	28,10,395	Exempted u/s. 10

4.1 Against these receipts, the expenditure incurred and claimed by the assessee in the P&L account are as under:

Bank Charges	1,224
Service Tax on Sale of investment	2,814
STT on shares	6,861
General expenses	200

However, the above expenditures were added by the assessee in the computation of business income and arrived the assessable business income. Thus, the assessee has not claimed any expenditure at all.

4.2 From the above, the AR submitted that it is clear that the assessee has not claimed any expenditure, whether taxable or exempted. Further, the assessee had huge reserves and surplus of Rs. 1145.40 lakhs at the beginning of the year and Rs. 1275.39 lakhs at the end of the year, she has not borrowed any money for any investment and all the investments have been made out of own resources only. Facts being so, the Assessing Officer has notionally added Rs. 5,21,480/- to the income, invoking section 14A r.w.r. 8D. Relying on the jurisdictional High Court decision in the case of Patco 272 ITR 195 (Mad), the AR submitted that the assessee received dividend of mutual fund units and claimed that said dividend is exempt u/s. 10(33), in absence of a proximate cause between expenditure incurred by assessee and tax exempt income, section 14A could not be invoked. Per contra, the DR supported the order of the AO & the order of the CIT(A).

5. We heard the rival submissions and gone through the relevant orders. It is clear from the above that the assessee has not claimed any expenditure or deduction at all. When no expenditure or deduction is incurred by the assessee in relation to any income which includes the income which

does not form part of the total income, the addition made by the Assessing Officer u/s. 14A r.w.s. 8D and sustained by the CIT(A) is held as unwarranted and accordingly deleted.

6. In the result, the assessee's appeal is allowed.

Order pronounced on Monday, the 14th day of August, 2017 at Chennai.

Sd/- (एन.आर.एस. गणेशन) (N.R.S. GANESAN) न्यायिक सदस्य/Judicial Member	Sd/- (एस जयरामन) (S. JAYARAMAN) लेखा सदस्य/Accountant Member
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चेन्नई/Chennai,

दिनांक/Dated: 14th August, 2017

JPV

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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