

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

'A' BENCH, CHENNAI

श्री एन.आर.एस. गणेशन, न्यायिक सदस्य एवं

श्री ए. मोहन अलंकामणी, लेखा सदस्य केसमक्ष

BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND
SHRI A. MOHAN ALANKAMONY, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.1840/Mds/2017

&

C.O. No.138/Mds/2017

निर्धारण वर्ष / Assessment Year : 2012-13

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

M/s Agile Electric Sub
Assembly Pvt. Ltd.,
v. A-33, A34 & A36, Phase-I,
MEPZ-SEZ, Tambaram,
Chennai - 600 045.

(अपीलार्थी/Appellant)

PAN : AABCI 3929 CJ
(Respondent & Cross Objector)

अपीलार्थी की ओर से/Appellant by : Shri AR.V. Sreenivasan, JCIT

प्रत्यर्थी की ओर से/Respondent by : Sh. T. Banusekar, CA

सुनवाई की तारीख/Date of Hearing : 21.12.2017

घोषणा की तारीख/Date of Pronouncement : 28.12.2017

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 Principal Commissioner of Income Tax (Appeals) -1, Chennai, dated 23.05.2017 and pertains to assessment year 2012-13. The assessee has filed a cross-objection against the very same order of

the Pr. CIT(Appeals). Since common issue arises for consideration in both the appeal and the cross-objection, we heard the same together and disposing of the same by this common order.

2. Shri AR.V. Sreenivasan, the Ld. Departmental Representative, submitted that the Assessing Officer disallowed the expenditure incurred by the assessee for earning exempted income by applying Rule 8D(2) of the Income-tax Rules, 1962. However, the Pr. CIT(Appeals) found that the assessee has not earned any income. Therefore, according to the Ld. D.R., there cannot be any disallowance under Section 14A of the Income-tax Act, 1961 (in short 'the Act'). According to the Ld. D.R., Rule 8D(2) very clearly says that irrespective of the fact whether assessee has earned any exempted income or not, the expenditure incurred for earning exempted income has to be disallowed. According to the Ld. D.R., Rule 8D(2) provides method for disallowance in case the Assessing Officer is not satisfied with the computation made by the assessee, therefore, the Pr.CIT(Appeals) is not justified in deleting the disallowance made by the Assessing Officer.

3. On the contrary, Sh. T. Banusekar, the Ld. representative for the assessee, submitted that the Pr. CIT(Appeals) by placing

reliance on the judgment of Madras High Court in Redington (India) Ltd. v. Addl. CIT (2017) TMI 318 found that when there was no dividend income, there cannot be any disallowance under Section 14A of the Act. In this case, according to the Ld. representative, the assessee has not earned any income, therefore, the Pr. CIT(Appeals) has rightly followed the judgment of Madras High Court.

4. We have considered the rival submissions on either side and perused the relevant material available on record. It is not the case of the Revenue that the assessee has earned any exempted income. When the assessee has not earned exempted income, this Tribunal is of the considered opinion that there cannot be any disallowance of expenditure in view of the judgment of Madras High Court in Redington (India) Ltd. (supra). Therefore, we are unable to accept the contention of the Ld. Departmental Representative. The Pr. CIT(Appeals) has rightly followed the judgment of Madras High Court in Redington (India) Ltd. (supra). Therefore, this Tribunal do not find any reason to interfere with the order of the lower authority and accordingly the same is confirmed.

5. Since the issue of disallowance under Section 14A of the Act raised by the Revenue in the appeal stands dismissed, the cross-objection filed by the assessee also stands dismissed as infructuous.

6. In the result, the appeal of the Revenue as well as the cross-objection of the assessee stand dismissed.

Order pronounced on 28th December, 2017 at Chennai.

sd/-
(ए. मोहन अलंकामणी)
(A. Mohan Alankamony)
लेखा सदस्य/Accountant Member

sd/-
(एन.आर.एस. गणेशन)
(N.R.S. Ganesan)
न्यायिक सदस्य/Judicial Member

चेन्नई/Chennai,
दिनांक/Dated, the 28th December, 2017.

Kri.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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