

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./ITA No.3165/Mds/2016

निर्धारण वर्ष / Assessment Year : 2012-13

The Deputy Commissioner of
Income Tax,
Corporate Circle – 2,
Madurai.

v. M/s Rajapalayam Mills Ltd.,
Rajapalayam Mills Premises,
PAC Ramasamy Raja Salai,
Rajapalayam.

PAN : AAACR 8897 F

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri N. Madhavan, Addl.CIT

प्रत्यर्थी की ओर से/Respondent by : Shri V. Jagadisan, CA

सुनवाई की तारीख/Date of Hearing : 04.01.2018

घोषणा की तारीख/Date of Pronouncement : 25.01.2018

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 Commissioner of Income Tax (Appeals)-1, Madurai, dated 24.08.2016 and pertains to assessment year 2012-13.

2. Shri N. Madhavan, the Ld. Departmental Representative, submitted that the Assessing Officer disallowed ₹2,15,52,400/-

under Section 14A of the Income-tax Act, 1961 (in short "the Act") read with Rule 8D(2) of the Income-tax Rules, 1962. However, on appeal by the assessee, the CIT(Appeals) deleted the addition made by the Assessing Officer. According to the Ld. D.R., the CIT(Appeals) found that the borrowed funds were not utilized for the purpose of investment. The CIT(Appeals) has not proved that the assessee had own funds for using the same for purchase of shares. On a query from the Bench, is it a case of Revenue that the assessee had no own funds for the purpose of making investment? The Ld. D.R. submitted that the CIT(Appeals) has not brought on record that the assessee had sufficient funds for making investment in the shares. Referring to Section 14A of the Act read with Rule 8D(2), the Ld. D.R. submitted that Rule 8D(2) does not say that in case the assessee's own funds were used for investment, there cannot be any disallowance. In the absence of any such clause in Rule 8D(2) of Income-tax Rules, according to the Ld. D.R., the CIT(Appeals) is not justified in allowing the claim of the assessee.

3. On the contrary, Shri V. Jagadisan, the Ld. representative for the assessee, submitted that the CIT(Appeals) by referring to the balance sheet, found that the assessee had own funds to the extent of ₹43,451.32 lakhs. According to the Ld. representative, what was

invested is only ₹4417.20 lakhs, therefore, it is not correct to say that the CIT(Appeals) has not proved that the assessee was having its own funds. According to the Ld. representative, the fact that the assessee was having ₹43,451.32 lakhs is not in dispute. It is also not in dispute that the investment was only ₹4417.20 lakhs. According to the Ld. representative, the entire investment was made only in the subsidiary company, namely, M/s Rajapalayam Spinning Mills Limited out of the profit generated during the year under consideration. Therefore, according to the Ld. representative, the CIT(Appeals) by placing reliance on the judgement of Karnataka High Court in CIT v. Micro Labs (383 ITR 490) found that the interest free funds were available more than the investment, therefore, there cannot be any disallowance under Section 14A of the Act. The CIT(Appeals) has also placed reliance on the judgement of Bombay High Court in CIT v. Reliance Utilities and Power Limited (313 ITR 340).

4. We have considered the rival submissions on either side and perused the relevant material available on record. Admittedly, the assessee had surplus funds of its own. It is not disputed that the assessee was having ₹43,451.32 lakhs. The investment is only ₹4417.20 lakhs. It is also not in dispute that the investment was

made only in the subsidiary company, namely, M/s Rajapalayam Spinning Mills Limited. In those circumstances, this Tribunal is of the considered opinion that the CIT(Appeals) has rightly deleted the disallowance made by the Assessing Officer. The investment made in the sister concern / subsidiary company is an investment for business even though earning of dividend income is incidental to the investment. Moreover, the assessee has invested its own profit in the subsidiary company, therefore, the CIT(Appeals) has rightly deleted the disallowance made by the Assessing Officer. Therefore, this Tribunal do not have any reason to interfere with the order of the lower authority and accordingly the same is confirmed.

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

Order pronounced on 25th January, 2018 at Chennai.

sd/-

(एस. जयरामन)

(S. Jayaraman)

लेखा सदस्य/Accountant Member

sd/-

(एन.आर.एस. गणेशन)

(N.R.S. Ganesan)

न्यायिक सदस्य/Judicial Member

चेन्नई/Chennai,

दिनांक/Dated, the 25th January, 2018

Kri.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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