

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
'C' 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./I.T.A. No.2382/CHNY/2017
निर्धारण वर्ष /Assessment year : 2008-2009.

The Deputy Commissioner of
Income Tax,
Corporate Circle 2(1)
Chennai 600 034.

Vs. M/s. EWS Finance & Investments
P. Ltd,
Dhun Building, 3rd floor,
North Wing, 827, Anna Salai,
Chennai 600 002.

(अपीलार्थी/Appellant)

**[PAN AABCE 6707E]
(प्रत्यर्थी/Respondent)**

अपीलार्थी की ओर से/ Appellant by : Ms. D. Kumutha, IRS, JCIT
प्रत्यर्थी की ओर से /Respondent by : None

सुनवाई की तारीख/Date of Hearing : 20-02-2018
घोषणा की तारीख /Date of Pronouncement : 20-02-2018

आदेश / ORDER

PER ABRAHAM P. GEORGE, ACCOUNTANT MEMBER:

In this appeal filed by the Revenue, which is directed against an order dated 31.07.2017 of the Id. Commissioner of Income Tax (Appeals)-6, Chennai, it is aggrieved that the Id. Commissioner of Income Tax (Appeals) restricted the disallowance made by the Id. Assessing Officer u/sec. 14A of the Income Tax Act, 1961 (in short

“the Act”) to the extent of exempt dividend income claimed by the assessee.

2. We find that the issue raised by the Revenue is squarely covered by the Hon'ble Delhi High Court judgment in the case of *Joint Investments Private Limited vs. CIT, 372 ITR 694*. What was held by their lordships is reproduced hereunder in ITA No.892/Mds/2017, dated 27.11.2017.

“9. In the present case, the AO has not firstly disclosed why the appellant/assessee's claim for attributing Rs.2,97,440/- as a disallowance under Section 14A had to be rejected. Taikisha says that the jurisdiction to proceed further and determine amounts is derived after examination of the accounts and rejection if any of the assessee's claim or explanation. The second aspect is there appears to have been no scrutiny of the accounts by the AO - an aspect which is completely unnoticed by the CIT (A) and the ITAT. The third, and in the opinion of this court, important anomaly which we cannot be unmindful is that whereas the entire tax exempt income is Rs.8,90,000/-, the disallowance ultimately directed works out to nearly 110% of that sum, i.e., Rs.52,56,197/-. By no stretch of imagination can Section 14A or Rule 8D be interpreted so as to mean that the entire tax exempt income is to be disallowed. The window for disallowance is indicated in Section 14A, and is only to the extent of disallowing expenditure “incurred by the assessee in relation to the tax exempt income”. This proportion or portion of the tax exempt income surely cannot swallow the entire amount as has happened in this case”.

Apart from the above, Hon'ble Jurisdictional High Court in the case of *Regindton (India) Ltd vs. JCIT (2016) 97 CCH 219* held that

expenditure incurred in connection with exempt dividend income would relate only to the previous year when the income was earned. In our opinion, there is no room for doubt that disallowance u/s. 14A of the Act cannot exceed income claimed as exempt by an assessee. Thus, we are of the opinion that Id. Commissioner of Income Tax (Appeals) was justified in restricting the disallowance to the quantum of exempt income claimed by the assessee. We do not find any reason to interfere with the order of the Id. Commissioner of Income Tax (Appeals).

3. In the result, the appeal of the Department stands dismissed.

Order pronounced in the open court at the time of hearing on Wednesday, the 20th February, 2018, at Chennai.

Sd/-

(जॉर्ज माथन)

(GEORGE MATHAN)

न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai

दिनांक/Dated:20th February, 2018.

KV

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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

Sd/-

(अब्राहम पी. जॉर्ज)

(ABRAHAM P. GEORGE)

लेखा सदस्य/**ACCOUNTANT MEMBER**