

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

'B' 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 Nos.1673 & 1674/Chny/2017

निर्धारण वर्ष / Assessment Years : 2013-14 & 2014-15

M/s Madura Micro Finance
Limited,
36, II Main Road, Kasturba Nagar,
Adyar, Chennai - 600 020.

v. The Income Tax Officer,
Corporate Ward 4(4),
Chennai - 600 034.

PAN : AAECM 4849 A

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri S. Nagarajan, CA

प्रत्यर्थी की ओर से/Respondent by : Shri B. Sahadevan, JCIT

सुनवाई की तारीख/Date of Hearing : 22.02.2018

घोषणा की तारीख/Date of Pronouncement : 28.02.2018

आदेश / O R D E R

PER N.R.S. GANESAN, JUDICIAL MEMBER:

Both the appeals of the assessee are directed against the respective orders of the Commissioner of Income Tax (Appeals) -8, Chennai, dated 04.05.2017 and pertain to assessment years 2013-14 and 2014-15. Since common issue arises for consideration in both the

appeals, we heard both the appeals together and disposing the same by this common order.

2. The first issue arises for consideration is disallowance made by the Assessing Officer under Section 14A of the Income-tax Act, 1961 read with Rule 8D(2)(ii) of the Income-tax Rules, 1962.

3. Shri S. Nagarajan, the Ld. representative for the assessee, submitted that the assessee had sufficient own and interest-free funds. For the assessment year 2013-14, the assessee had own funds to the extent of ₹63,81,76,448/-. Similarly, for the assessment year 2014-15, the own funds available with the assessee were to the extent of ₹72,11,88,435/-. According to the Ld. representative, the assessee, in fact, invested its own funds and no borrowed funds were utilised for investment for earning exempted income. Therefore, according to the Ld. representative, the computation made by the Assessing Officer under Rule 8D(2) is not correct.

4. We heard Shri B. Sahadevan, the Ld. Departmental Representative also. According to the Ld. D.R., since the assessee claims that it had its own funds, the matter may be remitted back to the file of the Assessing Officer for verification and to examine the applicability of Rule 8D(2) of the Income-tax Rules, 1962.

5. We have considered the rival submissions on either side and perused the relevant material available on record. The assessee claims

that own and interest free funds were available with it for making investment for earning dividend income. Moreover, even if the assessee invested its own funds, 0.5% of investment which yielded the exempted income has to be disallowed under Rule 8D(2). Therefore, this Tribunal is of the considered opinion that the matter needs to be verified by the Assessing Officer. Accordingly, orders of both the authorities below are set aside and the matter is remitted back to the file of the Assessing Officer. The Assessing Officer shall re-examine the availability of the assessee's own funds and interest free funds and also verify the investment made during the years under consideration and thereafter decide the issue afresh, in accordance with law, after giving a reasonable opportunity to the assessee.

6. The assessee has raised one more ground with regard to charging of interest under Section 234B of the Act. This Tribunal is of the considered opinion that charging of interest under Section 234B is a consequential one and therefore, the Assessing Officer shall reconsider the issue afresh and thereafter decide the same in accordance with law after giving a reasonable opportunity to the assessee.

7. In the result, both the appeals filed by the assessee are allowed for statistical purposes.

Order pronounced on 28th February, 2018 at Chennai.

sd/-

(ए. मोहन अलंकामणी)

(A. Mohan Alankamony)

लेखा सदस्य/Accountant Member

चेन्नई/Chennai,

दिनांक/Dated, the 28th February, 2018.

Kri.

sd/-

(एन.आर.एस. गणेशन)

(N.R.S. Ganesan)

न्यायिक सदस्य/Judicial Member

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)-8, Chennai
4. Principal CIT, Chennai-4, Chennai
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF.