

**THE INCOME TAX APPELLATE TRIBUNAL  
HYDERABAD BENCH "B", HYDERABAD**

**BEFORE SMT P. MADHAVI DEVI, JUDICIAL MEMBER  
AND SHRI S. RIFIAUR RAHMAN, ACCOUNTANT MEMBER**

**ITA No.1635/Hyd/2016  
Assessment Year: 2012-13**

M/s. Arunachala Logistics vs. DCIT,  
Pvt Ltd., Circle-1(1),  
Hyderabad. Hyderabad.

PAN – AAGCS1855C (Applicant) (Respondent)

**ITA No. 1053/Hyd/2017  
Assessment Year: 2013-14**

M/s. Arunachala Logistics Vs. ITO  
Pvt Ltd., Ward-1(8)  
Hyderabad. Hyderabad.

PAN – AAGCS1855C (Appellant) (Respondent)

Assessee by : Shri S. Rama Rao  
Revenue by : Shri Srinivas Sunku

Date of hearing : 24-04-2018  
Date of pronouncement : 27-04-2018

**ORDER**

**PER P. MADHAVI DEVI, J.M.:**

Both of these appeals are filed by the assessee for the A.Y 2012-13 and 2013-14 against the orders of the CIT(A)-1, Hyderabad 19.08.2016 and 17.02.2017 respectively. In both the appeals, the grievance of the assessee is against the disallowance made by the A.O u/s 14A of the Act.

2. Brief facts of the case are that the assessee company, engaged in the business of logistics, filed its returns of income for the respective assessment years. During the assessment proceedings u/s 143(3) of the IT Act, the A.O observed that the assessee has earned dividend income which is exempt from tax but has not made any disallowance u/s 14A of the IT Act. Therefore, the assessee was asked to explain as to why the expenses (interest and other administrative expenses) incurred in relation to earning of the exempt income should not be disallowed.

3. The assessee vide its letters, explained that the interest expenditure is only on loans taken for purchase of vehicles for the purposes of assessee's business and therefore is not attributable to earning of exempt income. Further, with regard to the disallowance u/s 14A r.w. Rule 8D(2)(iii) of the IT Rules, the assessee also submitted that the said disallowance should be only on the average of the investments which have yielded exempt income. The A.O, was however, not convinced with the assessee's contentions and disallowed the entire interest expenditure and also 0.5% of the average of the investments u/s 14A of the IT Act and brought it to tax. Aggrieved, the assessee preferred an appeal before the CIT(A), who confirmed the order of the A.O and the assessee is in second appeal before us.

4. After hearing the both the parties, we find that the interest expenditure of both the years, which has

been disallowed by the A.O u/s 14A of the IT Act, is admittedly on the loans taken by the assessee for purchase of vehicles for the purpose of its business of logistics. Therefore, this expenditure is directly attributable to the business loans and cannot be disallowed u/s 14A r.w.r 8D of the Act.

5. As regards the disallowance of 0.5% of the average value of the investment is concerned, we find that the Coordinate Bench of this Tribunal in the case of Transport Corporation of India Ltd., in ITA No. 117/Hyd/2016, dated 21.09.2016 has held that such disallowance can be only of the average of the investments which have yielded exempt income during the relevant assessment year. The relevant paras are reproduced hereunder for ready reference:

*“11. Considered the submissions of both the counsels and perused the material facts on record. The AR submitted that the assessee has sufficient own funds which are interest free to make investment. He also relied on various decisions, in particular, Reliance Utilities & Power Ltd. (supra). We cannot take this argument further because there exist interest bearing funds and it is difficult to identify the utilization of the funds in the business unless the assessee brings proper records to show that the specific interest free funds were utilized to acquire the investment which are exempt from tax. In the present case, it is difficult to identify the funds utilization considering the complicated structure of the business. To address this issue, the legislature has introduced Rule 8D for calculation of disallowance relating to direct expenses associated with the exempt income, interest relating to the investment and administrative expenses.*

*11.1 While carefully reading the rule 8D(2)(ii), the formula given are:*

*A X B/C*

Where A = amount of expenditure by way of interest other than the amount of interest included in clause (i) incurred during the previous year:

B = the average of value of investment, income from which does not or shall not form part of the total income, as appearing in the balance sheet of the assessee, on the first day and the last day of the previous year;

C = the average of total assets as appearing in the balance sheet of the assessee, on the first day and the last day of the previous year;

In particular, the notes for 'B' clearly states that the average value of investment, income from which does not or shall not form part of the total income. It is clear that we have to include those investments which has generated income and exclude those investments, which have not generated income. In the present case, AO had taken the total investment instead of those investments, which have generated income. Accordingly, we direct the AO to calculate the disallowance of interest as below ( as per rule 8D):

$$\text{Interest} \times \frac{\text{Investment (which generated income)}}{\text{Average total assets}}$$

The main reason is that as per section 14A, no deduction shall be allowed in respect of expenditure incurred by the assessee in relation to income, which is exempt from tax. The relevance is the expenditure in relation to income. The quantification has to be undertaken in relation to the exempt income. The investment which has not generated exempt income should be excluded from the calculation of ratio to determine the disallowance.

11.2 Similarly, for the administrative expenses, 0.5% of average investments from which the exempt income is received should be considered instead of average of the total investments.”

6. Respectfully following the same, The A.O is directed to re-compute the disallowance u/s 14A r.w. Rule 8D(2)(iii) of IT Rules only on the average of the investments which have yielded exempt income during

the relevant financial year. Accordingly the assessee's for both the assessment year appeals are partly allowed.

7. In the result both the appeals filed by the assessee are partly allowed.

Pronounced in the open court on 27<sup>th</sup> April, 2018.

Sd/-

**(S. RIFAUR RAHMAN)**  
**ACCOUNTANT MEMBER**

Sd/-

**(P. MADHAVI DEVI)**  
**JUDICIAL MEMBER**

Hyderabad, Dated: 27<sup>th</sup> April, 2018

KRK

- 1 M/s Arunachala Logistics Pvt Ltd., H. No. 8-2-1/1/3, Avatar Nivas, Sri Nagar Colony, Main Road, Punjagutta, Hyderabad-82
- 2 The DCIT, Circle-1(1) Hyderabad
- 3 The ITO, Ward-1(8), Hyderabad.
- 4 The CIT(A)-1, Hyderabad.
- 5 The Pr. Commissioner of Income tax-1, Hyderabad.
- 6 The DR, ITAT Hyderabad
- 7 Guard File