

**आयकर अपीलीय अधिकरण, मुंबई “बी” खंडपीठ**

Income-tax Appellate Tribunal “B” Bench Mumbai

**सर्वश्री राजेन्द्र, लेखा सदस्य एवं सी. एन. प्रसाद, न्यायिक सदस्य**

Before S/Sh. Rajendra, Accountant Member & C. .N. Prasad, Judicial Member

**आयकर अपील सं./I.T.A./1131/Mum/2016, निर्धारण वर्ष /Assessment Year: 2012-13**

Income Tax Officer – 9(2)(1) Room No.601A, 6 <sup>th</sup> Floor, Aayakar Bhavan, M. K . Road, Mumbai – 400 020	Vs.	M/s. Baruki Socks & Hosiery Pvt. Ld. 412, Dilkap Chambers, Off New Link Road, Andheri West, Mumbai - 400055 <b>PAN:AADCB0341D</b>
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(अपीलार्थी /Appellant)

(प्रत्यर्थी / Respondent)

**Revenue by:** Saurabh Deshpande-DR

**Assessee by:** None

**सुनवाई की तारीख / Date of Hearing: 12/06/2018**

**घोषणा की तारीख / Date of Pronouncement: 12/06/2018**

**आयकर अधिनियम,1961 की धारा 254(1)के अन्तर्गत आदेश**

**Order u/s.254(1)of the Income-tax Act,1961(Act)**

**लेखा सदस्य, राजेन्द्र के अनुसार /PER RAJENDRA, AM-**

Challenging the order, dated 30.12.2015, of CIT(A)-16, Mumbai the Assessing Officer (AO) has filed the present appeal. Assessee-company engaged in the business of shares and securities filed its return of income, on 28.09.2012, declaring total income of Rs.13,857/-. The AO completed the assessment on 07.10.2014, u/s.143(3) of the Act,determining its income at Rs.68.25 lacs.

2.Effective ground of appeal is about deleting the disallowance made by the AO u/s.14A r.w.Rule 8D of the Income Tax Rules, 1962 (Rules). During the assessment proceedings the AO found that the assessee had made investments in shares of Wockhardt. He directed the assessee to file explanation about the said investments. It is submitted, before the AO, that the shares was held as stock in trade ,that income derived from it was offered under the head business income, that it had not claimed any exemption out of the investment made in stock in shares. However, the AO did not satisfied and worked out the 14A disallowance at Rs.68.11 lacs.

3.Aggrieved by the order of the AO,the assessee filed an appeal before the First appellate Authority(FAA) and made detailed submissions it also relied upon certain case laws.

After conceiving the available material the FAA observed that no exempt income was earned by the assessee during the year under consideration, that it was following the accounting standards of the earlier years, that the department had accepted the same treatment while assessing it in the previous years. He referred to the cases of Cheminvest Ltd. (94 CCH 2) of Hon'ble Delhi High Court and Corrttech Energy Pvt. Ltd.(372 ITR 0097)and deleted the addition made by the AO.

4.During the course of hearing before us the Departmental Representative (DR) relied upon the order of the AO. As stated earlier, none appeared on behalf of the assessee.

We have perused the material available on record. We find that assessee company was showing stock of shares of Rs.7.16 crores in its books of accounts.Shares worth Rs.6.35 crores were shown as investment and balance shares were part of its inventory.As per the accounting standard issued by the ICAI shares held as stock in trade for more than one year had to be shown as investment.It is found that the assessee was offering entire income, arising of share trading, under the head 'profit or gains from the business or profession', and that the assessee had not claimed any exempt income during the year under consideration. As the assessee did not claim any expenditure and has not earned any exempt income for the year under consideration,so we are of the opinion that the order of the FAA does not suffer from any legal or factual infirmity. We also hold that the FAA has rightly placed reliance on the cases delivered by Hon'ble Delhi High Court and Hon'ble Gujarat High Court, as mentioned in the earlier part of our order. Hence we decide the effective ground of appeal against the AO.

As a result appeal filed by the AO stands dismissed.

फलतः निर्धारिती अधिकारी द्वारा दाखिल की गई अपील नामंजूर की जाती है

Order pronounced in the open court on 12<sup>th</sup> June, 2018.  
आदेश की घोषणा खुले न्यायालय में दिनांक 12 जून 2018 को की गई।

Sd/-

Sd/-

(सी.एन.प्रसाद /C.N.PRASAD)

(राजेन्द्र / RAJENDRA)

न्यायिक सदस्य / JUDICIAL MEMBER

लेखा सदस्य / ACCOUNTANT MEMBER

मुंबई Mumbai; दिनांक/Dated : 12/06/2018.

MP/JV,Sr.PS

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :**

- 1.Appellant /अपीलार्थी
2. Respondent /प्रत्यर्थी
- 3.The concerned CIT(A)/संबद्ध अपीलीय आयकर आयुक्त,
- 4.The concerned CIT /संबद्ध आयकर आयुक्त
- 5.DR “ B ” Bench, ITAT, Mumbai /विभागीय प्रतिनिधि, खंडपीठ,आ.अधि.मुंबई
- 6.Guard File/गार्ड फाईल

सत्यापित प्रति //True Copy//

आदेशानुसार/ **BY ORDER,**  
उप/सहायक पंजीकार **Dy./Asst. Registrar**  
आयकर अपीलीय अधिकरण, मुंबई /ITAT, Mumbai.