

आयकर अपीलीय अधिकरण "बी" न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH, PUNE

श्री डी. करुणाकरा राव,लेखा सदस्य, एवं श्री विकास अवस्थी, न्यायिक सदस्य के समक्ष
BEFORE SHRI D. KARUNAKARA RAO, AM AND SHRI VIKAS AWASTHY, JM

आयकर अपील सं. / ITA No. 837/PUN/2016

निर्धारण वर्ष / Assessment Year : 2009-10

Kirloskar Proprietary Ltd.
13-A, Kirloskar Kisan
Compound, Karve Road,
S. No.52/1, Kothrud,
Pune-411 038.
PAN : AAACK7506Q

.....अपीलार्थी / Appellant

बनाम / V/s.

The Assistant Commissioner of Income Tax,
Circle-11(1), Pune.

.....प्रत्यर्थी / Respondent

Assessee by : Shri C.H. Naniwadekar
Revenue by : Shri Mukesh Jha.

सुनवाई की तारीख / Date of Hearing : 20.06.2018
घोषणा की तारीख / Date of Pronouncement : 22.06.2018

आदेश / ORDER

PER VIKAS AWASTHY, JM

This appeal by the assessee is directed against the order of Commissioner of Income Tax (Appeals)-7, Pune dated 21.01.2016 for the assessment year 2009-10.

2. The assessee in appeal has assailed the findings of the Commissioner of Income Tax (Appeals) on two counts viz.

(i) Disallowance of expenditure u/s. 14A of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') Rs.3,91,591/-.

(ii) Disallowance of expenses Rs.51,048/-on account of software, classified under the head "Office Expenses" being capital in nature

3. Shri C. H. Naniwadekar appearing on behalf of assessee submitted at the outset that the issue raised in ground No. 2 is not pressed on account of smallness of amount involved.

3.1 In respect of ground No. 1, the ld. AR submitted that the assessee has not claimed any expenditure on exempt income. The assessee has not received any dividend income during the period relevant to assessment year under appeal. The dividend received on investment is re-invested. The ld. AR pointed that disallowance u/s.14A of the Act on similar set of facts was made in the assessment year 2010-11. The assessee carried the matter in second appeal before the Tribunal in ITA No.548/PN/2014. The Tribunal vide order dated 27.07.2016 restricted the disallowance u/s.14A of the Act to Rs.75,000/- as against disallowance of Rs.5,63,520/- made u/s.14A r.w. Rule 8D by the Department. The facts in the present case are identical; therefore, disallowance u/s.14A of the Act may be made on similar terms in assessment year 2009-10.

4. Shri Mukesh Jha representing the Department vehemently defending the order of Commissioner of Income Tax(Appeals) submitted that the Commissioner of Income Tax (Appeals) has confirmed disallowance under Rule 8D(2)(iii) of the Income Tax Rules, 1962 (in short 'the Rules'). The assessee has not made any suo-moto disallowance in respect of administrative expenses.

5. We have heard the submissions made by representatives of rival sides and have perused the orders of Authorities below. We have also considered the decision of the Co-ordinate Bench of Tribunal in assessee's own case for assessment year 2010-11 wherein identical issue in respect of disallowance u/s.14A r.w. Rule 8D of the Rules was adjudicated. It is an admitted fact that there has been no change in the facts and circumstances in the present case. The assessee has made investments in Mutual Funds and the dividend received is re-invested by the assessee. Under similar facts and circumstances, the Tribunal in assessment year 2010-11 has held as under:

“9. Disallowance u/s. 14A : The Assessing Officer has made disallowance of Rs.5,63,520/- u/s.14A r.w.Rule 8D on account of administrative expenses incurred on investments. The contention of the assessee is that the assessee has made investment in Mutual Funds alone. To substantiate his contentions the assessee has placed on record account statements of various Mutual Funds at pages 3 to 30 of the paper book. Admittedly, the assessee has not made any disallowances in respect of interest free income earned on investment made. The contention of ld. AR is that in all Mutual Funds where the assessee has made investment, dividend is reinvested in the Scheme. It has been further contended that Mutual Fund agencies recover the expenditure for managing portfolio at the time of investment or redemption as the case may be and accordingly adjust NAV of units purchased. The fact that the assessee has invested in Mutual Funds where the dividend income is reinvested in the scheme has not been disputed by the Department. After considering the totality of the facts we are of the view that the assessee must have been incurring some administrative cost in managing the Mutual Funds. Therefore, to meet the ends of justice we disallow Rs.75,000 /- u/s.14A of the Act as expenditure towards earning of interest free income. Accordingly, ground No. 1 raised in the appeal by the assessee is partly accepted.”

In line with the decision of the Co-ordinate Bench and taking into consideration the entirety of facts, we deem it appropriate to restrict the disallowance u/s.14A of the Act to Rs.1,00,000/- in respect of expenditure incurred for earning interest free income. Accordingly, **ground No. 1 raised in appeal by the assessee is partly allowed.**

6. In respect of ground No.2, the ld. AR stated at the Bar that he is not pressing the same. Accordingly, **ground No. 2 raised in appeal by the assessee is dismissed as not pressed.**

7. In the result, appeal of the assessee is partly allowed.

Order pronounced on Friday, the 22nd day of June, 2018

Sd/-	Sd/-
(डॉ. करुणाकरा राव / D. KARUNAKARA RAO)	(विकास अवस्थी / VIKAS AWASTHY)
लेखा सदस्य/ACCOUNTANT MEMBER	न्यायिक सदस्य/JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 22nd June, 2018

SB

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT (Appeals)-7, Pune.
4. The CIT-6, Pune.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "बी" बेंच, पुणे / DR, ITAT, "B" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

// True Copy //

आदेशानुसार / BY ORDER,

निजी सचिव / Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.