

आयकर अपीलीय अधिकरण, 'डी' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL
' D' BENCH : CHENNAI

श्री अब्राहमपी.जॉर्ज, लेखा सदस्य एवं
श्री जॉर्ज माथन, न्यायिक सदस्य के समक्ष

BEFORE SHRI ABRAHAM P GEORGE, ACCOUNTANT MEMBER
AND SHRI GEORGE MATHAN, JUDICIAL MEMBER

I.T.A.No.2404/CHNY/2017

&

C.O. No.181/CHNY/2017

Assessment year : 2012-13

The Deputy Commissioner of
Income Tax,
Corporate Circle 3(1),
New Block, 4th floor,
Chennai 600 034.

**Vs. M/s.True Value Homes (India)
Pvt. Ltd.,**
TVH Triveni, No.21,C.V.Raman
Road, Alwarpet, Chennai 600 018.

(Appellant)

**[PAN AACT 7955 Q]
(Respondent /
Cross Objector)**

अपीलार्थी की ओर से/ Appellant by
प्रत्यर्थी की ओर से /Respondent by

: Mrs.S.Vijayaprabha,JCIT,D.R
: Ms.Sushma Harini, Advocate &
Mr.G.Baskar,Advocate

सुनवाई की तारीख/Date of Hearing

: 04-07-2018

घोषणा की तारीख /Date of Pronouncement

: 04-07-2018

आदेश / O R D E R

PER GEORGE MATHAN , JUDICIAL MEMBER

ITA No.2404/Chny/2017 is an appeal filed by the Revenue against the Order of the Commissioner of Income Tax (Appeals)-11, Chennai in ITA No.178/2015-16 dated 06.06.2017 for the AY 2012-13

and C.O No.181/Chny/2017 is a Cross-Objection filed by the assessee in ITA No.2404/Chny/2017.

2. Mrs.S.Vijayaprabha represented on behalf of the Revenue and Ms.Sushma Harini and Mr.G.Baskar represented on behalf of the Assessee.

3. It was submitted by Id.D.R that in the course of assessment, it is noticed by Id. Assessing Officer that the assessee had investments to an extent of ₹90.87 crores of which substantial portion was in the subsidiary of the assessee's group companies. Consequently, the Id. Assessing Officer had by invoking the provisions of the section 14A of the Income Tax Act, 1961 and applying the provisions of the Rule-8D of Income Tax Rules, 1962, made disallowance to an extent of ₹3,52,73,743/-. It was a submission that Id.CIT(A) had restored the issue to the file of Id. Assessing Officer for verification as to whether the assessee received any exempt income during the previous year relevant to assessment year 2012-13. It was a submission that whether there is exempt income earned by the assessee, or not, the provisions of the section 14A of the Act was liable to be applied.

4. In reply, Id.A.R drew our attention to page No.33 of the paper book, which is the copy of P&L A/c and at page No.34 of paper

book, which is the copy of cash flow statement for the year ended 31.03.2012. It was submitted by Id.A.R that clearly there was no dividend income received by the assessee. Id.A.R also brought to our notice the 'Notes to Financial statement' of the company for the year ended 31.03.2012 to state that no dividend income or exempt income has been received by the assessee. It was the prayer that in view of the decision of Hon'ble Madras High Court in the case of M/s.Redington India Ltd. Vs. Addl. CIT reported in 392 1TR 633(Mad.), as the assessee did not earn any exempt income during the year out of the investments, no disallowance is called for.

5. We have considered the rival submissions. A perusal of the Profit and Loss Account and Cash Flow statement of the assessee for the year ended 31.03.2012 of the assessee clearly shows that assessee has not received any exempt income during the year, out of the investments. A perusal of the provisions of the section 14A clearly shows that the words use therein are "*income does not form part of the total income under this Act*". The assessee has not earned any income, which does not form part of the total income under section 14A of the Income Tax Act, 1961. This being so, respectfully following the decision of the Hon'ble jurisdictional Madras High Court's decision in the case of M/s.Redington India Ltd., referred to supra, the addition

made by the Id. Assessing Officer on this issue is not liable to be made. Consequently, the appeal of the Revenue is dismissed.

6. As the Cross-Objections are in support of the order of the Ld.CIT(A), and we have already deleted the addition made by Id. Assessing Officer in Revenue's appeal, the Cross-Objections filed by the assessee stands dismissed as infructuous.

7. In the result, the appeal filed by the Revenue and the Cross-Objection filed by the assessee stand dismissed.

Order pronounced in the open court after conclusion of hearing on 04th July, 2018, at Chennai.

Sd/-
(अब्राहमपी.जॉर्ज)
(ABRAHAM P GEORGE)
लेखा सदस्य /ACCOUNTANT MEMBER

Sd/-
(जॉर्ज माथन)
(GEORGE MATHAN)
न्यायिक सदस्य/JUDICIAL MEMBER

चेन्नई/Chennai

दिनांक/Dated: 04th July, 2018.

K S Sundaram

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 |