

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर  
IN THE INCOME TAX APPELLATE TRIBUNAL,  
JAIPUR BENCHES, JAIPUR

श्री विजय पाल राव, न्यायिक सदस्य एव श्री भागचन्द, लेखा सदस्य सदस्य के समक्ष  
BEFORE: SHRI VIJAY PAL RAO, JM & SHRI BHAGCHAND, AM

आयकर अपील सं./ITA No. 185/JP/2018  
निर्धारण वर्ष/Assessment Year: 2013-14

The ACIT Circle – 1 Kota	बनाम Vs.	M/s. N.R. Switch-N-Radio Service (P) Ltd. E-17, RIICO Electronics Complex I.P.I.A., Kota
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: AABCN 1300 L		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

राजस्व की ओर से / Revenue by: Smt. Seema Meena, JCIT - DR  
निर्धारिती की ओर से / Assessee by: Shri Sanjiv Mathur, CA

सुनवाई की तारीख / Date of Hearing : 05/07/2018  
घोषणा की तारीख / Date of Pronouncement : 09/07/2018

आदेश / ORDER

PER BHAGCHAND, AM

The appeal filed by the Revenue emanates from the order of the  
ld. CIT(A), Kota dated 16-11-2017 for the Assessment Year 2013-14  
raising therein solitary ground of appeal as under.

“On the facts and circumstances of the case, the ld.  
CIT(A) has erred in deleting the addition of Rs.  
20,409/- made by treating interest income as income  
from other sources.”

2.1 Brief facts of the case are that the AO on perusal of the balance sheet of the assessee during assessment proceeding noted that the assessee is having investment of Rs. 7,33,352/- on shares. The income of this investment is not includible while computing the total income. The AO noted that the assessee has not disallowed anything u/s 14A of the Act. The AO vide query letter dated 30-11-2015 asked the assessee to furnish working of disallowance as per provisions of section 14A r.w.r. 8D. The assessee was further asked vide order sheet entry dated 10-03-2016 to show cause as to why disallowance u/s 14A read with rule 8D should not be made. The AO during assessment proceeding noted that the assessee had not submitted anything in this regard. The AO has given the reference of CBDT Circular No. 5/2014 and also the relevant provision of Section 14A of the Act in the assessment order. The AO disallowed an amount of Rs. 20,409/- and added the same to the total income of the assessee by observing as under:-

*“7.3 In view of the provisions of Section 14A and in the light of Board’s Circular No. 5/2014 and having regard to the income of the assessee, I am not satisfied with the correctness of the claim of the assessee in respect of its income which does not part of the total income under this Act. Therefore, the disallowance u/s 14A is calculated as*

*prescribed under Rule 8D (details mentioned at page 5) and added to the total income of the assessee.’*

2.2 In first appeal, the Id. CIT(A) has deleted the addition made by the AO by observing as under:-

*“...Based on the above legal precedents relevant to the facts of this case where no exempt income has been earned by the appellant to warrant disallowance as per the provisions laid down u/s 14A r.w.r. 8D and further since the AO had not brought out any nexus between interest bearing funds having been diverted towards such investment of Rs. 7,33,352/-, the addition of Rs. 20,409/- is accordingly directed to be deleted. This ground of appeal is treated as allowed.*

2.3 During the course of hearing, the Id. DR supported the order of the AO and also mentioned that the issue of disallowance u/s 14A r.w.rule 8D falls under exception as mentioned in para 8(b) of the Board's Circular No. 21/2015.

2.4 On the other hand, the Id.AR of the assessee supported the order of the Id. CIT(A) and also relied on the decision of Hon'ble Allahabd High Court in the case of Addl. CIT vs Dhampur Sugar Mills Pvt. Ltd. 111

DTR (2014) 350 (All.). The Hon'ble Court held that *where the entire interest expenditure was attributable to business income in which resultant income was assessable to tax, disallowance u/s 14A is not warranted – in favour of assessee.*

2.5 We have heard the rival contentions and perused the materials available on record. The facts of this ground is that the AO disallowed the sum of Rs. 20,409/- u/s 14A of the Act read with rule 8D holding that the investment made by the assessee company is not correct as the company has not earned any income. In first appeal, the ld. CIT(A) has deleted the addition made by the AO amounting to Rs. 20,409/- holding that the AO had not brought out any nexus between interest bearing funds having been diverted towards such investment of Rs. 7,33,352/-. It is noted that the ld. CIT(A) has taken into consideration the various case laws in his order which finds support in favour of the assessee. The decision of Hon'ble Allahabad High Court in the case of Addl. CIT vs Dhampur Sugar Mills (P) Ltd. finds support in favour of the assessee on the issue in question. In view of the facts, circumstances of the case and the case laws (supra), we concur with findings of the ld. CIT(A). Thus the appeal of the Revenue is dismissed.

3.0 In the result, the appeal of the Revenue is dismissed.

Order pronounced in the open Court on 09 -07-2018.

Sd/-  
( विजय पाल राव )  
(Vijay Pal Rao)  
न्यायिक सदस्य /Judicial Member

Sd/-  
(भागचन्द)  
(Bhagchand)  
लेखा सदस्य /Accountant Member

जयपुर / Jaipur  
दिनांक / Dated:- 09 /07/ 2018  
\*Mishra

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

1. अपीलार्थी / The Appellant- The ACIT, Circle – 1, Kota
2. प्रत्यर्थी / The Respondent- M/s. N R Switch-N-Radio Service (P) Ltd.
3. आयकर आयुक्त(अपील) / CIT(A).
4. आयकर आयुक्त / CIT,
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
6. गार्ड फाईल / Guard File (ITA No.185 /JP/2018)

आदेशानुसार / By order,

सहायक पंजीकार / Assistant. Registrar