

IN THE INCOME TAX APPELLATE TRIBUNAL "G" BENCH, MUMBAI

BEFORE SHRI SHAMIM YAHYA, AM AND SHRI C. N. PRASAD, JM

I.T.A. No. 4223/Mum/2016
(Assessment Year: 2008-09)

Dy. CIT, Cent. Cir. – 6(3) R. No. 1926, 19 th Floor, AIR India Building, Nariman Point, Mumbai-400 021	Vs.	M/s. Pipavav Defence Offshore & Engineering Co. Ltd. Pipava House, 209, Bank Street, Cross Lane 4, Fort, Mumbai-400 023
PAN/GIR No. AABCP 1491 L		
(Appellant)	:	(Respondent)
Appellant by	:	Shri K. S. Rajendra Kumar
Respondent by	:	Shri Jitendra Sanghavi/ Shri Deepak M. Jain
Date of Hearing	:	12.06.2018
Date of Pronouncement	:	14.08.2018

ORDER

Per Shamim Yahya, A. M.:

This appeal by the Revenue is directed against the order of the Id. Commissioner of Income Tax (Appeals) – 54, Mumbai dated 09.03.2016 and pertains to assessment year 2008-09.

2. The grounds of appeal read as under:

1. "Whether on the facts and in the circumstances of the case and in law, the Ld. CIT(A) is justified in holding that the business of the assessee was set up during the previous year under consideration while the assessee has not done any business activity during the previous year under consideration."
2. "Whether on the facts and in the circumstances of the case and in law, the Ld. CIT(A) is justified in holding that the general administrative expenses are deductible as revenue expenses and interest income of the assessee is assessable to tax as income from business and profession while the business of the assessee was not set up during the previous year under consideration."
3. "Whether on the facts and in the circumstances of the case and in law, the Ld. CIT(A) is justified in deleting the disallowance u/s.14A w.r.t. to interest expenses

of Rs. 49,97,97,672/- while the assessee has not maintained separate pool of funds for general operating expenses and for capital expenses and investment."

The appellant prays that the order of Commissioner of Income-tax (Appeal) on the above ground be set aside and that of the Assessing Officer be restored. The appellant craves leave to amend or alter any grounds or add a new ground which may be necessary.

3. We have heard both the counsel and perused the records. We find that the present assessment order has been passed u/s. 143(3) r.w.s. 153A pursuant to search dated 21.08.2012. All the additions made and as referred in the grounds of appeal were already made in the scrutiny assessment done on 30/12/2010. The matter was adjudicated by the Id. Commissioner of Income Tax (Appeals) and the matter also travelled to the ITAT. The assessing officer in the present case has repeated the additions made in the earlier scrutiny assessment. As referred above this was subsequently a subject matter of appeal before the Id. Commissioner of Income Tax (Appeals) and the ITAT. The ITAT vide order dated 31/8/2017 in ITA No. 4692/Mum/2014 has dismissed the Revenues appeal. The grounds of appeal before the ITAT were as under:

1. Whether on the facts and in the circumstances of the case and in law, the Ld.CIT(A) is justified in holding that the business of the assessee was set up during the previous year under consideration while the assessee has not done any business activity during the previous year under consideration.

2. Whether on the facts and in the circumstances of the case and in law, the Ld.CIT(A) is justified in holding that the general administrative expenses are deductible as revenue expenses and interest income of the assessee is assessable to tax as income from business and profession while the business of the assessee was not set up during the previous year under consideration.

3. Whether on the facts and in the circumstances of the case and in law, the Ld.CIT(A) is justified in deleting the disallowance u/s.14A w.r.t. to interest expenses of Rs.49,97,97,672/- while the assessee has not maintained separate pool of funds for general operating expenses and for capital expenses and investment.

4. Since grounds raised in this appeal were already dealt with by the ITAT in its order as above and the Revenues appeal has been dismissed, we do not find any merit in this appeal filed by the revenue. Accordingly the same stands dismissed.

5. In the result, the appeal filed by the Revenue stands dismissed.

Order pronounced in the open court on 14.08.2018

Sd/-

Sd/-

(C. N. Prasad)
Judicial Member

(Shamim Yahya)
Accountant Member

Mumbai; Dated : 14.08.2018

Roshani, Sr. PS

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT - concerned
5. DR, ITAT, Mumbai
6. Guard File

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai