

## IN THE INCOME TAX APPELLATE TRIBUNAL, BENCH 'SMC' KOLKATA

[Before Hon'ble Shri J.Sudhakar Reddy, AM]

**ITA No.1193/Kol/2018**  
Assessment Year : **2012-13**

Shree Veerayatan Steel Industries Pvt. Ltd. -versus-  
Kolkata  
(PAN: AADCS 2472 E)  
(Appellant)

I.T.O., Ward-3 (2),  
Kolkata

(Respondent)

For the Appellant: Shri Sunil Surana, Advocate  
For the Respondent: Shri Provas Roy, Addl. CIT

Date of Hearing : 03.09.2018.

Date of Pronouncement : 12.09.2018.

**ORDER**

**PER J.SUDHAKAR REDDY, AM:**

This is an appeal filed by the assessee directed against the order of the Commissioner of Income Tax-(A)-1, Kolkata dated 21.02.2018 passed u/s 250 of the Income Tax Act, 1961 (the 'Act ') relating to A.Y. 2012-13.

2. There are only two issues arise in this appeal. The first issue is application of section 50C of the Act and the second is disallowance u/s 14A of the Act.

3. After hearing rival contentions, I find that the AO at para-1 page -2 of his order has clearly stated that the assessee had submitted an agreement on sale which was entered into on 18.11.2010 and which was registered on 25.10.2011. The claim of the assessee was that, the circle rate i.e. the market value fixed for the immovable property registration authority, for the purpose of determination of stamp duty value should be taken as on the date of agreement and not the value as on the date of registration of the sale deed. Contemporaneous evidence in the form of advance given for the agreement of sale, by way of crossed cheque drawn on bank was produced before the AO.

4. Under the circumstances the law is very clear. The valuation as per registration authority for the purposes of stamp duty, as on the date of entering into agreement of

sale, should be considered for the purposes of computation u/s 50C of the Act and not the valuation as on the date on which the sale has been executed. Hence I set aside the matter to the file of the AO for fresh adjudication in accordance with law by obtaining the market value fixed for stamp duty purposes by registrar office as on 18.11.2010 i.e. the date of agreement of sale and computing the capital gains in question.

5. In the result this ground of appeal is allowed for statistical purposes.

6. Ground No.2 is on the issue of disallowance u/s 14A of the Act. The undisputed fact is that the assessee has not earned any exempt income during the year. Under the circumstances it is well settled that no disallowance can be made u/s 14A of the Act as held by the Hon'ble Supreme Court in the case of CIT vs Chettinad Logistics Pvt. Ltd. [2018] 95 Taxman 256 and the Hon'ble Delhi High Court in the case of Cheminvest Ltd. Vs CIT [2009] 317 ITR 86.

7. In the result this ground of appeal is allowed.

8. In the result the appeal of the assessee is allowed in part.

**Order pronounced in the Court on 12.09.2018.**

Sd/-  
[ J.Sudhakar Reddy ]  
Accountant Member

Dated : 12.09.2018.

[RG Sr.PS]

Copy of the order forwarded to:

- 1.Shree Veerayatan Steel Industries Pvt. Ltd., G.T.Road, Chowmath, Khanyan, Hooghly-712147 (West Bengal).
2. I.T.O., Ward-3 (2), Kolkata.
3. C.I.T.(A)- 1, Kolkata      4. C.I.T-1, Kolkata
5. CIT(DR), Kolkata Benches, Kolkata.

True Copy

By order,

Senior Private Secretary  
Head of Office/D.D.O, ITAT Kolkata Benches

