

आयकर अपीलिय अधिकरण, 'बी' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

'B' BENCH, CHENNAI

श्री एन.आर.एस. गणेशन, न्यायिक सदस्य एवं श्री एस जयरामन, लेखा सदस्य केसमक्ष

BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND
SHRI S. JAYARAMAN, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.593/Chny/2018

निर्धारण वर्ष / Assessment Year : 2014-15

The Assistant Commissioner of
Income Tax,
Corporate Circle – 5(2),
Chennai - 600 034.

v. M/s PVP Ventures Ltd.,
KRM Centre, 9th floor,
No.2, Harrington Road, Chetpet,
Chennai - 600 031.

(अपीलार्थी/Appellant)

PAN : AAACS 3101 P

(प्रत्यर्थी/Respondent)

आयकर अपील सं./ITA No.594/Chny/2018

निर्धारण वर्ष / Assessment Year : 2014-15

The Assistant Commissioner of
Income Tax,
Corporate Circle – 5(2),
Chennai - 600 034.

v. M/s PVP Global Ventures Pvt. Ltd.,
No.2, Harrington Road, Chetpet,
Chennai - 600 031.

(अपीलार्थी/Appellant)

PAN : AAACP 0807 F

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri S. Bharath, CIT
Shri Guru Bashyam, JCIT

प्रत्यर्थी की ओर से/Respondents by : Ms. K. Hemalatha, CA

सुनवाई की तारीख/Date of Hearing : 01.08.2018

घोषणा की तारीख/Date of Pronouncement : 19.09.2018

आदेश / O R D E R

PER N.R.S. GANESAN, JUDICIAL MEMBER:

Both the appeals of the Revenue are directed against the respective orders of the Commissioner of Income Tax (Appeals) -3, Chennai, in respect of two independent assesseees. Since common issue arises for consideration in both the appeals, we heard both the appeals together and disposing of the same by this common order.

2. Shri S. Bharath, the Ld. Departmental Representative, submitted that in the case of M/s PVP Ventures Ltd. in I.T.A. No.593/Chny/2018, the assessee has earned dividend income of ₹5,53,379/-. According to the Ld. D.R., the Assessing Officer computed the disallowance under Rule 8D(2) of the Income-tax Rules, 1962 to the extent of ₹11,71,79,344/-. The CIT(Appeals), by placing reliance on the order of this Tribunal in M/s Royala Corporation in I.T.A. No.908/Mds/2015, directed the Assessing Officer to restrict the disallowance to the extent of exempted income. According to the Ld. D.R., an appeal was already filed before the High Court against the order of this Tribunal in M/s Royala Corporation (supra). Moreover, according to the Ld. D.R.,

Rule 8D(2) of the Income-tax Rules, 1962 does not say that the disallowance has to be restricted to earning of exempted income. According to the Ld. D.R., irrespective of the fact whether the assessee earned dividend income or not, the disallowance has to be computed as provided in Rule 8D(2). Section 14A of the Income-tax Act, 1961 (in short 'the Act') read with Rule 8D(2) does not in anywhere say that it is a pre-condition to earn dividend income or exempted income for making disallowance. Therefore, according to the Ld. D.R., the CIT(Appeals) is not correct in directing the Assessing Officer to restrict the disallowance to the earning of dividend income.

3. On the contrary, Ms. K. Hemalatha, Ld. representative for the assessee, submitted that the Madras High Court in the case of Redington (India) Ltd. v. Addl. CIT (2017) 77 taxmann.com 257 and in the case of CIT v. Chettinad Logistics Pvt. Ltd. in T.C.A. No.24 of 2017, found that there cannot be any disallowance for expenditure when the assessee has not earned any exempted income. In this case, the assessee has earned only a sum of ₹5,53,379/-. Therefore, the CIT(Appeals) by placing reliance on the order of this

Tribunal in M/s Royala Corporation restricted the disallowance to the exempted income.

4. We have considered the rival submissions on either side and perused the relevant material available on record. The CIT(Appeals) by placing reliance on the order of this Tribunal in M/s Royala Corporation (supra) directed the Assessing Officer to restrict the disallowance to the extent of exempted / dividend income earned by the assessee. As rightly submitted by the Ld. representative for the assessee, the Madras High Court in Redington (India) Ltd. (supra) and Chettinad Logistics Pvt. Ltd. (supra) categorically found that there cannot be any disallowance when the assessee has not earned any exempted income. Therefore, this Tribunal is of the considered opinion that the CIT(Appeals) has rightly placed his reliance on the order of this Tribunal in Royala Corporation Ltd. (supra).

5. The only contention of the Ld. D.R. before this Tribunal is that an appeal is pending before the High Court. It is nobody's case that the High Court has stayed operation of the order of this Tribunal in M/s Royala Corporation Ltd. (supra). Mere pending of appeal before the High Court cannot be a reason to take a different view by

this Tribunal. Therefore, this Tribunal do not find any reason to interfere with the order of the lower authority and accordingly the same is confirmed.

6. Now coming to I.T.A. No.594/Chny/2018 in the case of PVP Global Ventures Pvt. Ltd.

7. In this case, admittedly, the assessee has not earned any exempted income. Therefore, the judgments of Madras High Court in Redington (India) Ltd. (supra) and Chettinad Logistics Pvt. Ltd. (supra) are squarely applicable. Moreover, the CIT(Appeals) has placed his reliance on the order of this Tribunal in ACIT v. M. Bhaskaran in I.T.A. No.1717/Mds/2013. Since the Madras High Court found that there cannot be any disallowance under Section 14A of the Act when there was no exempted income or dividend income earned by the assessee, this Tribunal do not find any reason to interfere with the order of the lower authority and accordingly the same is confirmed.

8. In the result, both the appeals filed by the Revenue stand dismissed.

Order pronounced on 19th September, 2018 at Chennai.

sd/-

(एस जयरामन)

(S. Jayaraman)

लेखा सदस्य/Accountant Member

sd/-

(एन.आर.एस. गणेशन)

(N.R.S. Ganesan)

न्यायिक सदस्य/Judicial Member

चेन्नई/Chennai,

दिनांक/Dated, the 19th September, 2018.

Kri.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondents
3. आयकर आयुक्त (अपील)/CIT(A)-3, Chennai
4. Principal CIT- 5, Chennai
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF.