

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

'A' 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.1680/Chny/2018

निर्धारण वर्ष / Assessment Year : 2013-14

M/s VIKI Industries Pvt. Ltd.,
No.1, Krishna Street,
Nungambakkam,
Chennai - 600 034.

v. The Assistant Commissioner of
Income Tax,
Corporate Circle 3(2),
Chennai - 600 034.

PAN : AAACV 2003 P

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri D. Anand, Advocate

प्रत्यर्थी की ओर से/Respondent by : Sh. Lalmalsawma Pachuau, JCIT

सुनवाई की तारीख/Date of Hearing : 09.10.2018

घोषणा की तारीख/Date of Pronouncement : 25.10.2018

आदेश / O R D E R

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

This appeal of the assessee is directed against the order of the Commissioner of Income Tax (Appeals) -11, Chennai, dated 27.02.2018 and pertains to assessment year 2013-14.

2. The first issue arises for consideration is disallowance made by the Assessing Officer under Section 14A of the Income-tax Act, 1961 (in short 'the Act').

3. Shri D. Anand, the Ld.counsel for the assessee, submitted that the Assessing Officer disallowed ₹2,27,304/- by applying the provisions of Rule 8D of Income-tax Rules, 1962. The Ld.counsel further submitted that the assessee earned dividend income of ₹19,125/- only. Therefore, according to the Ld. counsel, the disallowance has to be restricted to the income earned by the assessee.

4. We heard Sh. Lalmalsawma Pachuau, the Ld. Departmental Representative also. It is not in dispute that the assessee has earned only ₹19,125/- as dividend income. In view of the judgment of Madras High Court in Redington (India) Ltd. v. Addl. CIT (2017) 77 taxmann.com 257, the Assessing Officer cannot disallow or make addition in air. The Madras High Court found that the disallowance has to be restricted only to the extent of dividend income earned by the assessee. Therefore, the disallowance has to be restricted only to the extent of ₹19,125/-. Accordingly, orders

of both the authorities below are set aside and the Assessing Officer is directed to disallow only ₹19,125/- towards expenditure for earning the exempted income.

5. The next issue arises for consideration is disallowance of advertisement and brand promotion expenses.

6. Shri D. Anand, the Ld.counsel for the assessee, submitted that the very same issue was considered by this Tribunal in the assessee's own case for assessment year 2012-13 in I.T.A. No.852/Chny/2017 dated 18.06.2018. Referring to the order of the CIT(Appeals), the Ld.counsel submitted that the CIT(Appeals) simply followed the order of the CIT(Appeals) for assessment year 2012-13. The order of the CIT(Appeals) for assessment year 2012-13 was reversed by this Tribunal and found that similar expenses incurred by the assessee towards advertisement and brand promotion are revenue expenditure.

7. We heard Sh. Lalmalsawma Pachuau, the Ld. Departmental Representative also. The Ld. D.R. very fairly submitted that the issue is covered in favour of the assessee by order of this Tribunal

for assessment year 2012-13. An identical expenditure incurred for advertisement and brand promotion was found to be revenue in nature by this Tribunal in the assessee's own case for assessment year 2012-13. Since the same expenditure is subject matter of appeal for the year under consideration, this Tribunal is of the considered opinion that it has to be treated as revenue expenditure in view of the order of the co-ordinate Bench of this Tribunal for assessment year 2012-13.

8. In view of the above discussion, we are unable to uphold the orders of the lower authorities. The orders of both the authorities below are set aside and the addition made by the Assessing Officer as confirmed by the CIT(Appeals) is deleted.

9. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the court on 25th October, 2018 at Chennai.

sd/-

(एस जयरामन)

(S. Jayaraman)

लेखा सदस्य/Accountant Member

चेन्नई/Chennai,

दिनांक/Dated, the 25th October, 2018.

Kri.

sd/-

(एन.आर.एस. गणेशन)

(N.R.S. Ganesan)

न्यायिक सदस्य/Judicial Member

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)-11, Chennai
4. Principal CIT, Chennai-3, Chennai
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF.