

**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCH 'A', HYDERABAD**

**BEFORE SMT. P. MADHAVI DEVI, JUDICIAL MEMBER
AND SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER**

ITA No. 1677/Hyd/2017
Assessment Year: 2013-14

Usha Conductor Pvt. Ltd., vs. Income-tax Officer,
Hyderabad. Ward – 17(1), Hyderabad

PAN – AAACU 2568C

Appellant

Respondent

Assessee by: Shri S. Rama Rao
Revenue by: Shri R.S. Arvindakshan

Date of hearing: 01/11/2018
Date of pronouncement: 09/11/2018

ORDER

PER S. RIFAUR RAHMAN, AM:

This appeal is filed by the assessee against the order of CIT(A) - 5, Hyderabad, dated 26/07/2017 for AY 2013-14.

2. Brief facts of the case are, the assessee company, engaged in the business of manufacturing of copper wire drawing and enamelling, filed its return of income for the AY 2013-14, electronically, on 29/09/2013 declaring income of Rs. 47,87,430/-. Subsequently, the case was selected for scrutiny under CASS and notices u/s 143(2) and 142(1) were issued and served on the assessee along with the questionnaire. In response to the said notices, the AR of the assessee filed the required information as called for.

2.1 During the course of assessment proceedings, the AO noticed that the assessee-company has made investments in Visakha Realty Ltd. for an amount of Rs. 1,74,60,000/-. The

assessee was asked to furnish the details of investments. In reply, the assessee company stated that the investment of Rs. 1,74,60,000/- was made in M/s. Visakha Realty Pvt. Ltd. in the year 2007-08 from out of its accumulated reserves, and the shares were allotted in the year 2008. It further stated that since it had not utilised any borrowed funds for the investment made, no disallowance is called for u/s.14A of the LT. Act.

2.2. The AO was of the view that assessee would have incurred indirect administrative expenditure. He observed that as per the provisions of sec.14A of the I.T. Act, 1961, no deduction shall be allowed in respect of expenditure incurred, which includes interest incurred on exempt income. Since the assessee failed to furnish the details of expenditure incurred exclusively for earning exempted income, the AO invoked the provisions of section 14A of the Act and computed disallowance u/s 14A at Rs. 5,93,803/-.

3. When the assessee preferred an appeal before the CIT(A), the CIT(A) upheld the disallowance made by the AO.

4. Aggrieved by the order of CIT(A), the assessee is in appeal before us raising the following grounds of appeal:

“1) The order of the learned Commissioner of Income Tax (Appeals) is erroneous to the extent it is prejudicial to the appellant.

2) The learned Commissioner of Income Tax (Appeals) erred in confirming the action of the Assessing Officer in holding that the provisions of Sec.14A are applicable for the amount of Rs. 1,74,60,000/- invested in Visakha Realty Pvt.Ltd.,

3) The learned Commissioner of Income Tax (Appeals) ought to have seen that when there is no exempted income, the provisions of Sec.14A are not applicable and ought to have deleted the entire addition of Rs.5,93,803/ - made by the Assessing Officer.

4) The Hon'ble Commissioner of Income Tax (Appeals) erred in confirming the charging of interest u/s 234B and 234C of the I.T. Act.

5) Any other ground or grounds that may be urged at the time of hearing.”

5. Considered the rival submissions and perused the material on record. On perusal of financial statements submitted by the assessee, we find that the share capital as on 31/03/2013 was Rs. 1,65,58,120/- and the reserve amounted to Rs. 2,73,95,769/-. During the 2007-08, the assessee made investment to an extent of Rs. 1,74,60,000/- with Visakha Realty Pvt. Ltd and the shares were allotted to the assessee in 2008. Since the assessee did not derive any exempt income during the current AY, provisions of section 14A have no application. It is settled position of law that the provisions of section 14A can be applied to quantify the expenses in relation to exempt income. Since the exempt income is Nil, section 14A will not apply. The Rule 8D can be applied only when there is difficulty in finding the expenditure relating to exempt income. The provisions of section 14A and Rule 8D will not apply to the present case and accordingly, ground Nos. 2 & 3 raised by the assessee on this are allowed.

5.1 As regards ground No. 4 regarding charging of interest u/s 234B and 234C, charging interest under these sections is mandatory in nature, therefore, the AO is directed accordingly.

5.2 Ground Nos. 1 & 5 are general in nature.

6. In the result, appeal of the assessee is allowed.
Pronounced in the open court on 9th November, 2018.

Sd/-
(P. MADHAVI DEVI)
JUDICIAL MEMBER

Sd/-
(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER

Hyderabad, dated 9th November, 2018

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Copy forwarded to:

1. Usha Conductors Pvt. Ltd., 5-35/250 and 251,
Prashanthi Nagar, Kukatpally, Hyderabad - 500072
2. ITO, Ward – 17(1), Signature Towers, Kondapur, Hyd.
3. CIT(A) - 5 Hyderabad
4. Pr. CIT - 5 Hyderabad
5. The DR, ITAT, Hyderabad
6. Guard File