



**IN THE INCOME TAX APPELLATE TRIBUNAL "B", BENCH MUMBAI
BEFORE SHRI MAHAVIR SINGH, JM
&
SHRI M.BALAGANESH, AM**

**ITA No.6/Mum/2018
(Assessment Year :2006-07)**

Dy. Commissioner of Income Tax 1(1)(1), Room No.579, Aayakar Bhawan,M.K.Road Mumbai – 400 020	Vs.	M/s. Bennett Coleman & Company Ltd., Dr. D.N.Road, Fort Mumbai – 400 001
PAN/GIR No.AAACB4373Q		
(Appellant)	..	(Respondent)

Revenue by	Shri Mohammed Rizwan
Assessee by	Shri V. Mohan
Date of Hearing	24/01/2019
Date of Pronouncement	30/01/2019

आदेश / ORDER

PER M. BALAGANESH (A.M):

This is an appeal filed by Revenue directed against the order of Commissioner of Income Tax (Appeals) (in short 'CIT(A))-6, Mumbai dated 09/10/2017 for A.Y.2006-07 in the matter of order passed u/s/.143(3) r.w.s. 254 of the Income Tax Act, 1961.

2. The only issue to be decided in this appeal is as to whether the Ld. CIT(A) was justified in restricting the disallowance u/s.14A of the Act r.w.r.8D of the rules in the facts and circumstances of the case.

3. The brief facts of this issue are that the assessee filed its return of income for A.Y.2006-07 on 20/11/2006 declaring total income of Rs.604,67,77,167/-. The assessment was completed originally u/s.143(3) of the Act determining total income of Rs.650,28,61,292/-. The assessee preferred an appeal before the Ld. CIT(A) wherein the issue of disallowance u/s.14A of the Act was restored to the file of the Ld. AO. Accordingly, this issue was again adjudicated by the Ld. AO in the proceedings framed u/s.143(3) r.w.s. 254 of the Act. During the course of second round of proceedings, the Ld. AO observed that the assessee earned tax free dividend income of Rs.26,01,84,026/-. The assessee did not make any disallowance of expenses u/s.14A of the Act in the return of income. Accordingly, the Ld. AO concluded that certainly certain administrative expenses would have to be incurred by the assessee for the purpose of making investments and for the purpose of earning income from those investments and going by the purpose of introduction of Section 14A of the Act in the statute, these expenses on some proportionate basis need to be disallowed. The Ld. AO confronted the assessee with regard to this aspect and the assessee submitted to restrict the disallowance u/s.14A to 1% of total expenses or 1% of total dividend income. The Ld. AO did not agree to these contentions of the assessee and proceeded to work out the disallowance u/s.14A to the tune of Rs.2,75,82,540/- in the following manner:-

A. From the Balance Sheet the following facts can be seen:

Investments-	Rs. 1367,56,98,954/-
Advances-	Rs. 256,12,94,848/-
Total	Rs. 1623,69,93,802/-

The above ratio reveals that the advance is 15.75% and investments are 84.25% of total of investments and advances. The assessee has shown total expenses of Rs. 1,72,08,11,274/-. Hence the gross expenses attributable for earning exempt income is worked out to Rs. 144,97,83,498/- being 84.25% of Rs. 1,72,08,11,274/-.

B. During the year the assessee has shown dividend income of Rs. 26,01,84,026/- and Total Investments as on 31.03.2006 of Rs. 13,67,56,98,954/-, Hence the expenses attributable for earning exempt income are worked out as under:

Total expenses incurred for Inv X Dividend income earned (exempted)
Total Investments as on 31.03.2006

$$\frac{1449783498 \times 260184026}{13,67,56,98,954} - 2,75,82,540/-$$

5.9. The total Disallowance U/S.14A is worked out at Rs. 2,75,82,540/-.

4. Before the Ld. CIT(A) assessee made an alternative plea that disallowance u/s.14A could be made in the ratio of dividend income to the total income of the assessee which, when done, worked out to Rs.1,71,92,776/-. This plea was accepted by the Ld. CIT(A) and accordingly disallowance u/s.14A was restricted to Rs.1,71,92,776/- as against Rs.2,75,82,540/-. Aggrieved, Revenue is in appeal before us.

4. We have heard the rival submissions. We find that the Ld. CIT(A) had fairly restricted the disallowance in the facts of the instant case in the ratio of dividend income (exempt) to the total income of the assessee. This, in our considered opinion, does not call for any interference.

Accordingly, we uphold the order of Ld. CIT(A) and dismiss the appeal of the Revenue.

5. In the result, appeal of the Revenue is dismissed.

Order pronounced in the open court on this 30/01/2019

Sd/-
(Mahavir Singh)
JUDICIAL MEMBER

Sd/-
(M. Balaganesh)
ACCOUNTANT MEMBER

Mumbai; Dated 30/01/2019

Karuna Sr.PS

Copy of the Order forwarded to :

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

BY ORDER,

सत्यापित प्रति //True Copy//

(Asstt. Registrar)
ITAT, Mumbai