

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ 'ए', अहमदाबाद ।
IN THE INCOME TAX APPELLATE TRIBUNAL
“ A ” BENCH, AHMEDABAD

BEFORE SHRI RAJPAL YADAV, JUDICIAL MEMBER And
SHRI AMARJIT SINGH, ACCOUNTANT MEMBER

आयकर अपील सं./I.T.A. No.2029/Ahd/2017
(निर्धारण वर्ष / Assessment Year : 2013-14)

The DCIT Circle-1(1)(2) Ahmedabad	बनाम/ Vs.	M/s.D.B.Corp.Ltd. 280, Sarkhej Gandhiangar Highway Nr.YMCA Club Makarba, Ahmedabad
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AACCM5772G		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

अपीलार्थी ओर से/ Appellant by :	Shri S.K. Dev, Sr.DR
प्रत्यर्थी की ओर से/Respondent by :	Shri Dhinal Shah, AR

सुनवाई की तारीख / Date of Hearing	14/02/2019
घोषणा की तारीख /Date of Pronouncement	15/02/2019

आदेश / O R D E R

PER SHRI RAJPAL YADAV, JUDICIAL MEMBER :

The Revenue is in appeal before us against the order of Ld.Commissioner of Income Tax(Appeals)-1, Ahmedabad [‘CIT(A)’ in short] dated 24/07/2017 passed for Assessment Year (AY) 2013-14.

2. The Revenue has pleaded that the Ld.CIT(A) has erred in law and on facts in restricting the disallowance made u/s.14A of the Income Tax

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Act, 1961 (hereinafter referred to as "the Act") read with Rule 8D of the Income Tax Rules, 1962 to Rs.3,25,000/- as against Rs.1,06,77,237/- made by the Assessing Officer.

3. The brief facts of the case are that assessee is engaged in the business of publication of Newspaper & Periodicals. It has filed its return of income electronically on 27/09/2013 declaring total income at Rs.3,30,00,78,860/-. On scrutiny of accounts, it revealed to the Assessing Officer that assessee has made investment in shares of Rs.1,56,13,19,437/- and earned dividend income amounting to Rs.3,25,000/-. He made an analysis and worked out the disallowance with the help of Rule 8 D of Income Tax Rules, 1962 of Rs.1,06,77,237/-.

4. On appeal, Ld.CIT(A) restricted this disallowance to the extent of dividend income earned by the assessee which is exempt from tax.

5. The issue before us is whether disallowance u/s.14A of the Act could be restricted to the extent of dividend income which is claimed to be exempt from tax by the assessee.

6. The ld.counsel for the assessee placed reliance upon the order of the ITAT in assessee's own case for AY 2009-10 in ITA

No.1850/Ahd/2012. He further placed reliance on the judgement of Hon'ble Supreme Court in the case of Principal Commissioner of Income Tax, Patiala vs. State Bank of Patiala (2018) 99 taxmann.com 286 (SC).

7. On the other hand, Ld.DR relied upon the order of Assessing Officer.

8. We have duly considered the rival contentions and gone through the records carefully. For AY 2009-10, under identical situation, the Tribunal has recorded the following finding:

“9. We have carefully considered the arguments of both the sides and perused the material placed before us. The Hon'ble Jurisdictional High Court has held where the assessee did not make any claim for exemption of any income from payment of tax, disallowance u/s.14A could not be made. It is the contention of the learned Counsel that it did not claim any income to be exempt from the payment of income-tax. In support of this contention, he referred to the computation of income filed by the assessee. However, we deem it proper to set aside this issue back to the file of the Assessing Officer and we direct him to verify whether the assessee has claimed for exemption of any income from payment of tax. If the assessee did not claim any income to be exempt from the payment of tax, then no disallowance u/s.14A could be made. However, if any income is claimed to be exempt, then the disallowance should be restricted to such income. With this direction, we restore this matter back to the file of the Assessing Officer.

10. In the result, assessee's appeal is deemed to be allowed for statistical purposes.”

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8.1. This finding is based upon the decision of Hon'ble Gujarat High Court in the case of CIT vs. Corrttech Energy (P.) Ltd. reported in (2014) 45 taxmann.com 116 (Guj.), wherein the Hon'ble High Court has held that if there is no exempt income claimed by the assessee, then no expenses could be disallowed.

8.2 Taking guidance from the decision, the Tribunal has upheld in restricting the disallowance to the extent of exempt income at the most. Respectfully following the decision of Coordinate Bench(supra), we find no reason to interfere with the order of the Ld.CIT(A). Hence, this ground of appeal of the Revenue is dismissed.

9. In the result, Revenue's appeal stands dismissed.

Order pronounced in the Court on 15th February-2019 at Ahmedabad.

Sd/-
(AMARJIT SINGH)
ACCOUNTANT MEMBER

Sd/-
(RAJPAL YADAV)
JUDICIAL MEMBER

Ahmedabad; Dated 15/ 02 /2019
टी.सी.नायर, व.नि.स./T.C. NAIR, Sr. PS

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)-1, Ahmedabad
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad