

**IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH, AHMEDABAD**

**BEFORE SHRI AMARJIT SINGH, ACCOUNTANT MEMBER &
Ms. MADHUMITA ROY, JUDICIAL MEMBER**

ITA No.2151/Ahd/2017
(Assessment Year : 2013-14)

M/s. MEW Electronics Ltd. (formerly Mahesh Enamelled Wires Pvt. Ltd.), 305/A, Windsor Plaza, R.C. Dutt Road, Baroda-390 005.	Vs.	DCIT, Circle – 2(1)(2), Baroda.
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[PAN No. AABCM 4242 L]

(Appellant)

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(Respondent)

Appellant by :	Shri Sunil Talati, A.R.
Respondent by :	Shri Mudit Nagpal, Sr. D.R.

Date of Hearing	08/02/2019
Date of Pronouncement	04/03/2019

ORDER

PER Ms. MADHUMITA ROY - JM:

The instant appeal filed by the assessee is against the order dated 20.06.2017 passed by the Commissioner of Income Tax (Appeals)-2, Vadodara arising out of the assessment order dated 29.01.2016 passed by the DCIT, Circle 2(1)(2), Baroda under section (u/s) 143(3) of the Income Tax Act, 1961 (hereinafter referred as to “The Act”) for the Assessment Year 2013-14.

2. The assessee in the instant appeal has challenged the disallowance of Rs.9,71,925/- made by the Assessing Officer by invoking Section 14A of the Act.

3. At the time of hearing of the matter, the Learned representative of the assessee submitted that the Assessing Officer made a total disallowance of Rs.9,71,925/- under rule 8D r.w.s. 14A of the Act which was in turn confirmed by the Leaned CIT(A) on the

basis of the disallowance made in A.Y. 2012-13 by the predecessor on 19.11.2015 in Appeal No. CAB(A)-2/363/14-15. It was further brought to notice by the Learned AR that such order of confirmation of disallowance for A.Y. 2012-13 was set aside by the Learned Tribunal and restored to the file of the Learned CIT(A) in ITA No.329/Ahd/2016 for A.Y. 2012-13. Needless to mention, same relief has been sought for on behalf of the assessee before us. However, the Learned DR relied upon the order passed by the authorities below.

4. We have heard the representative of the respective parties, we have also perused the relevant materials available on record. The order passed by the Co-ordinate Bench in assessee's own appeal for A.Y. 2012-13 has also been carefully considered by us whereby and whereunder the Learned CIT(A) was directed to denovo adjudication of the matter; the relevant portion of the said judgment is reproduced herein below:

5. *We have carefully considered the rival submissions. We find that identical issue came up before the Co-ordinate Bench in assessment year 2011-12 in assessee own case where in the similar circumstances. The issue was set aside to the file of the Ld. CIT(A) for de nova adjudication.*
6. *The relevant operative para of the order of the Co-ordinate Bench relevant to assessment year 2011-12 is reproduced hereunder:-*

“We have heard both the sides and perused the material on record. We observed that Id. CIT(A) has sustained the disallowance made by the assessing officer u/s. 14A r.w. Rule 8D in respect of expenditure incurred for earning exempt income by referring to the decision of ld. CIT(A) on the identical issue in the case of assessee for assessment year 2008-09. We have considered the submission of the Id. counsel that because of smallness of the amount of disallowance involved the assessee has not contested the decision of the ld. CIT(A) for assessment year 2008-09. In view of the aforesaid facts and circumstances we observe that in the interest of justice, it will be appropriate to restore this case to the file of ld. CIT(A) to decide it on merit without referring to the decision of the ld. CIT(A) for the assessment year 2008-09. Accordingly, the issue is set aside to the Id. CIT(A) to decide afresh after affording adequate opportunities to the assessee.”

7. *In consonance with the view taken in assessment year 2011-12 the captained issue in assessment year 2012-13 is also set aside to the file of the Ld. CIT(A) with identical directions applicable to assessment year 2011-12. Accordingly, the issue is set aside and restored to the file of the Ld. CIT(A) for adjudication afresh after affording proper opportunity to the assessee to the regard.”*

Taking into consideration of the order passed by the Co-ordinate Bench on the identical issue we set aside the issue to the file of the Learned CIT(A) with the direction upon him to adjudicate the matter afresh upon taking into consideration the evidence already placed before it and also the evidences which the assessee may choose to file at the time of hearing of the matter before the first appellate authority.

5. In the result, assessee's appeal is allowed for statistical purposes.

This Order pronounced in Open Court on

04/03/2019

Sd/-
(AMARJIT SINGH)
ACCOUNTANT MEMBER

Sd/-
(Ms. MADHUMITA ROY)
JUDICIAL MEMBER

Ahmedabad; Dated 04/03/2019
Priti Yadav, 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)-2, Vadodara
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