

आयकर अपीलीय अधिकरण] पुणे न्यायपीठ “एक सदस्य” पुणे में
IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH “SMC”, PUNE

BEFORE SHRI ANIL CHATURVEDI, AM
AND SHRI VIKAS AWASTHY, JM

आयकर अपील सं / ITA No.1328/PUN/2018

निर्धारण वर्ष / Assessment year : 2015-16

Karla Overseas and Precision
Engineering Limited,
411/412, City Point, Dhole Patil
Boat Club, Pune – 411 001.

..... अपीलार्थी /
Appellant

PAN : AABCK2406Q.

बनाम v/s

The Income Tax Officer,
Ward 14(2), Pune.

..... प्रत्यर्थी /
Respondent

Assessee by : Shri Gopal R. Aswani.

Revenue by : Shri M.K. Verma.

सुनवाई की तारीख / Date of Hearing : 23.01.2019	घोषणा की तारीख / Date of Pronouncement: 07.03.2019
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आदेश / ORDER

PER ANIL CHATURVEDI, AM :

1. This appeal filed by the assessee is emanating out of the order of the Commissioner of Income Tax – (Appeals) – 7, Pune dated 22.06.2018 for the assessment year 2015-16.

2. The relevant facts as culled out from the material on record are as under :-

Assessee is a company which is stated to be engaged in the business of manufacturing of Forged and Cast Machine components. Assessee electronically filed its return of income for A.Y. 2015-16 on 03.10.2015 declaring total income at Rs.13,67,660/-. The case was

selected for scrutiny and thereafter assessment was framed u/s 143(3) of the Act vide order dt.03.11.2017 and the total income was determined at Rs.26,17,220/-. Aggrieved by the order of AO, assessee carried the matter before Ld.CIT(A), who vide order dt.22.06.2018 (in appeal No.PN/CIT(A)-7/Wd-14(2)/10218/2017-18) dismissed the appeal of assessee. Aggrieved by the order of Ld.CIT(A), assessee is now in appeal before us and has raised the following grounds :

“1. On the facts and in the circumstances of the case and in law the honorable CIT (Appeals) - 7, Pune erred in confirming the disallowance of Interest and other expenses amounting to Rs. 12,49,564/- as disallowed by the Learned AO by applying the provision of section 14A of the I. T. Act read with Rule 80 of the I. T. Rules, 1962 without appreciating the facts of the case. The appellant hereby prays that the addition may please be deleted.

2. On the facts and in the circumstances of the case and in law the honorable CIT (Appeals) - 7, Pune erred in confirming the disallowance of interest and other expenses amounting to Rs. 12,49,564/- made under section 14A of the I. T. Act read with Rule 80 of the I. T. Rules, 1962 without appreciating the facts that

- a) The appellant has not made any new investment during the year under consideration, income from which is exempt from tax.*
- b) The appellant has not incurred any expenditure in relation to the income not forming part of total income in order to attract the provisions of section 14A of the I.T. Act*
- c) The interest free funds available with the appellant in the form of Share Holders Funds (Share Capital plus Reserve and Surplus) are much more than the Investments made by the appellant in the shares of the companies.”*

3. Before us, at the outset, Ld.A.R. submitted that though assessee has raised various grounds but the only issue is with respect to disallowance u/s 14A r.w. Rule 8D of the Income Tax Rules.

4. During the course of assessment proceedings, AO noticed that assessee had made investments in Equity Instruments and had incurred interest expenses. AO was of the view that in view of the fact that income from equity instruments was exempt from taxes, provisions

of Sec.14A r.w. Rule 8D(2)(ii) of I.T. Rules are applicable. The assessee was asked to explain as to why the disallowance u/s 14A r.w. Rule 8D(2)(ii) of I.T. Rules not be made. The submissions of the assessee were not found acceptable to the AO. AO on the basis of method prescribed under Rule 8D(2)(ii) worked out the total disallowance of interest u/s 14A of the Act at Rs.11,31,983/- and on account of other expenses at Rs.1,17,581/- under Rule 8D(2)(iii) of I.T. Rules and thus disallowed Rs.12,49,564/- u/s 14A of the Act. Aggrieved by the order of AO, assessee carried the matter before Ld.CIT(A), who upheld the order of AO. Aggrieved by the order of Ld.CIT(A), assessee is now in appeal before us.

5. Before us, Ld.A.R. reiterated the submissions made before AO and Ld.CIT(A) and further pointing to the audited Balance-Sheet placed at page 6 of the Paper Book submitted that as against the investment of Rs.86 lakhs assessee was having sufficient interest free funds in the form of Share capital and Reserves and Surplus aggregating to Rs.23 crores which were more than the investments and in such a situation, it is to be presumed that investments are out of interest free funds. Ld.A.R. relied on the decision of Hon'ble Bombay High Court in the case of CIT Vs. HDFC Bank Ltd., reported in (2014) 366 ITR 505 wherein it was held that when the own funds are more than the investments then no disallowance of interest u/s 14A of the Act is called for. Relying on the aforesaid decision, he submitted that no disallowance of interest under Rule 8D(2)(ii) of I.T. Rules is called for in the present case. He further submitted that assessee has earned exempt income of only Rs.3,705/- u/s 10(34) of the Act and in such an eventuality, the disallowance u/s 14A of the Act is to be restricted to the exempt income

earned. Ld.D.R. on the other hand, supported the order of lower authorities.

6. We have heard the rival submissions and perused the material on record. The issue in the present ground is with respect to disallowance u/s 14A r.w. Rule 8D of the Act. Before us, assessee from the audited Balance-Sheet has pointed out that the availability of interest free funds in the form of Share capital, Reserves and Surplus aggregates to Rs.23 crores as against the investments made at Rs.86 lakhs which shows that the availability of interest free funds to be much more than the investments. We find that Hon'ble Bombay High Court in the case of CIT Vs. HDFC Bank Ltd (supra) has held that when own funds are more than the investments, then no disallowance of interest u/s 14A of the Act is called for. Following the aforesaid decision of Hon'ble Bombay High Court we hold that in the present case, no disallowance of interest u/s 14A r.w 8D(2)(ii) of I.T. Rules is called for. As far as disallowance of administrative expenses u/s 14A r.w. Rule 8D(2)(iii) is concerned, we find that under Rule 8D(2)(iii) of I.T. Rules, the disallowance of other expenses has been worked out at Rs.1,17,581/-. It is assessee's contention that assessee has earned exempt income of dividend only of Rs.3,705/-. The aforesaid contention of the assessee has not been controverted by Revenue. We find that the Hon'ble Punjab and Haryana High Court in the case of PCIT Vs. State Bank of Patiala in ITA No.359 of 2017 dt.14.11.2017 has held that the amount of disallowance u/s 14A of the Act has to be restricted to the amount of exempt income only and not at a higher figure. We find that against the aforesaid order of Punjab and Haryana High Court, Revenue filed S.L.P. before the Hon'ble Apex Court and the S.L.P. was dismissed by the Hon'ble Apex Court. We further find that Hon'ble Delhi High Court in the case of PCIT Vs

Caraf Builders & Construction (P) Ltd., (2019) 101 Taxmann.com 167 (Del) after considering the decisions of Hon'ble Apex Court in the case of Maxopp Investment Ltd. Vs. CIT (2018) 402 ITR 640, Cheminvest Vs. CIT (2015) 378 ITR 33 and other decisions has held that disallowance u/s 14A cannot exceed exempt income of the relevant year. In the present case, since assessee has earned exempt income from dividends only to the extent of Rs.3,705/-, we relying on the aforesaid decisions direct the disallowance u/s 14A of the Act be restricted to the extent of exempt income i.e., Rs.3,705/-. **Thus, the grounds of the assessee are partly allowed.**

7. **In the result, the appeal of the assessee is partly allowed.**

Order pronounced on 7th day of March, 2019.

Sd/- (VIKAS AWASTHY) न्यायिक सदस्य / JUDICIAL MEMBER	Sd/- (ANIL CHATURVEDI) लेखा सदस्य / ACCOUNTANT MEMBER
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पुणे Pune; दिनांक Dated : 7th March, 2019.

Yamini

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. CIT(A) –7, Pune.
4. Pr.CIT-6, Pune.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "एक सदस्य" / DR, ITAT, "SMC" Pune;
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER

// True Copy //

वरिष्ठ निजी सचिव / Sr. Private Secretary
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune.