

**IN THE INCOME TAX APPELLATE TRIBUNAL
"SMC" BENCH, AHMEDABAD**

[Before Shri Pramod Kumar, Vice President]

ITA No. 157/Ahd/2015
Assessment Year : 2010-11

Parker Multi Commodities (I) Pvt LtdAppellant
1, 3rd Floor, Landmark Building,
Opp. HDFC House, Nr. Mithakhali Six Roads,
Ahmedabad – 380 009
[PAN : AAACP 9355 J]

Vs.

Asstt. Commissioner of Income-taxRespondent
Circle-5, Ahmedabad

Appearances by:

Vasant Tanna, for the applicant
Lalit P Jain, for the respondent

Date of concluding the hearing : 01.03.2019
Date of pronouncing the order : 01.03.2019

O R D E R

1. By way of this appeal, the assessee appellant has challenged correctness of learned CIT(A)'s order dated 3rd September 2014 in the matter of assessment under section 143(3) of the Income-tax Act, 1961 for the assessment year 2010-11.

2. Grievance raised by the appellant, in substance, is as follows:-

"The learned CIT(A) grossly erred in law and on facts of the case in confirming the action of the AO in making disallowance of Rs.6,93,413/- by invoking the provisions of Section 14A of the IT Act read with Rule 8D of the IT Rules out of expenditure incurred wholly and exclusively for earning the income chargeable to tax."

3. Learned Counsel for the assessee submits that the entire earnings from dividend is Rs.38,773/- and, therefore, in terms of Hon'ble jurisdictional High Court's judgment in the case of CIT vs. Corrtch Energy Pvt Ltd [(2015) 372 ITR 97 (Guj.)], the disallowance under section 14A cannot exceed the tax exempt earnings itself. He further submits that, despite the above clear legal position, the disallowance made in the case of assessee is Rs.6,93,413/-; whereas the dividend earning is far less, i.e. Rs.38,773/-. He therefore urges me to restrict the disallowance under section 14A to the tax exempt amount, i.e. Rs.38,773/-. The learned Departmental Representative relies on the orders of the authorities below; but, nevertheless fairly accepts the position that the issue is now covered in favour of the assessee by the Hon'ble jurisdictional High Court's judgement in the case of Corrtch Energy Pvt Ltd (supra) to the extent that the disallowance under section 14A cannot exceed the tax exempt earnings.

4. In view of the above discussions and respectfully following Hon'ble jurisdictional High Court's judgment in the case of Corrtch Energy Pvt Ltd (supra), I deem it fit and proper to direct the Assessing Officer to restrict the disallowance to Rs.38,773/-. Ordered, accordingly.

5. In the result, the appeal is partly allowed in the terms indicated above. Pronounced in the open court today on the 1st March, 2019.

Sd/-

Pramod Kumar
(Vice President)

Ahmedabad, the 1st day of March, 2019

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Copies to: (1) The appellant
(2) The respondent
(3) Commissioner
(4) CIT(A)
(5) Departmental Representative
(6) Guard File

By order

TRUE COPY

Assistant Registrar
Income Tax Appellate Tribunal
Ahmedabad benches, Ahmedabad