

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ 'D' अहमदाबाद ।

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

**BEFORE SHRI RAJPAL YADAV, JUDICIAL MEMBER
& SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER**

आयकर अपील सं./I.T.A. No. 1589/Ahd/2015

(निर्धारण वर्ष / Assessment Year : 2010-11)

Meghmani Organics Ltd. Plot No. 183-184, Phase II, GIDC, Vatva, Ahmedabad- 382 445	बनाम/ Vs.	DCIT, (OSD)-1, Circle-4, Ahmedabad
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AAB CM0 644 E		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

अपीलार्थी ओर से /Appellant by :	Urvashi Sodhan, A.R.
प्रत्यर्थी की ओर से / Respondent by :	G. C. Daxini, Sr. DR

सुनवाई की तारीख / Date of Hearing	14/03/2019
घोषणा की तारीख /Date of Pronouncement	27/03/2019

आदेश/ORDER

PER PRADIP KUMAR KEDIA - AM:

The captioned appeal has been filed at the instance of the assessee against the order of the CIT(A)-2, Ahmedabad ('CIT(A)' in short), dated 27.02.2015 arising in the assessment order dated 28.02.2014 passed by the Assessing Officer (AO) under s. 143(3) r.w.s 144C of the Income Tax Act, 1961 (the Act) concerning A.Y. 2010-11.

2. Ground No. 1 to 9 concerns disallowance u/s. 14A read with Rule 8D of the Income Tax Rules. The Ld. AR for the assessee submitted that the exempt income is pagged at Rs. 3,14,117/- only and therefore the disallowance under 14A cannot exceed the aforesaid amount. We find merit in the plea of the assessee in view of the decision of the Hon'ble Gujarat High Court in the case of CIT vs. Energy Corrttech Pvt. Ltd. 372 ITR 97 and DCIT vs. TGB Banquets Hotels Ltd. in Tax Appeal No. 470 of 2012 dated 21.06.2016 (Gujarat). Therefore the AO has directed to restrict the disallowance u/s. 14A to the extent of exempt income. In the result, ground no. 1 to 9 is partly allowed and disposed in terms of above.

3. Ground No. 10 concerns disallowance in respect of deduction under 10B of the Act. At the time of hearing, the Ld. AR for the assessee fairly submitted that she does not seek to press the aforesaid ground. Consequently Ground No. 10 is dismissed as not pressed.

4. Ground No. 11 concerns disallowance of Rs. 6,17,972/- in respect of LTCG. With the assistance of the Ld. AR of the assessee, we have perused of the order of the CIT(A) and we do not find any infirmity therein. Therefore, without repeating the findings of the CIT(A), we decline to interfere. Ground No. 11 is therefore dismissed.

5. Ground No. 12 towards addition of upward adjustment is dismissed as not pressed.

6. Ground No. 13 concerns additions in the book profit computed u/s. 115JB of the Act on account of disallowance u/s. 14A of the Act. In view of the long line of judicial precedents including the decision of the Special Bench in ACIT vs. Vireet Investments Ltd. 165 ITD 27 (SB), we find merit in the plea of the assessee. The AO is accordingly directed to delete the addition to the book profit on this score. Ground No. 13 is accordingly allowed.

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

This Order pronounced in Open Court on 27/03/2019

Sd/-
(RAJPAL YADAV)
JUDICIAL MEMBER

Sd/-
(PRADIP KUMAR KEDIA)
ACCOUNTANT MEMBER

Ahmedabad: Dated 27/03/2019

Tanmay

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आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. राजस्व / Revenue
2. आवेदक / Assessee
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त- अपील / CIT (A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद /
DR, ITAT, Ahmedabad
6. गार्ड फाइल / Guard file.

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण, अहमदाबाद ।