

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर  
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES "SMC", JAIPUR

श्री रमेश सी शर्मा, लेखा सदस्य के समक्ष  
BEFORE: SHRI RAMESH C SHARMA, ACCOUNTANT MEMBER

आयकर अपील सं./ ITA No. 258/JP/2019  
निर्धारण वर्ष / Assessment Year :2015-16

M/s. Sofcom Systems Ltd. D-36, Subhash Marg, Flat No. 802, Sheel Mohar Apartments, C-Scheme, Jaipur	बनाम Vs.	I.T.O., Ward-6(4), Alwar
स्थायी लेखा सं./ जीआईआर सं./ PAN/GIR No.: AACCS4859A		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by: Shri Rohan Sogani (CA)  
राजस्व की ओर से / Revenue by : Smt. Roshanta Meena (JCIT)

सुनवाई की तारीख / Date of Hearing : 15/04/2019  
उद्घोषणा की तारीख / Date of Pronouncement : 11/06/2019

आदेश / ORDER

PER: R.C. SHARMA, A.M.

This is an appeal filed by the assessee against the order of Id.CIT(A), Ajmer dated 14/12/2018 for the A.Y. 2015-16 in the matter of order passed U/s 143(3) of the Income Tax Act, 1961 (in short the Act).

2. Rival contentions have been heard and record perused. The only grievance of the assessee relates to disallowance U/s 14A of the Act read with Rule 8D of the Income Tax Rules, 1962 (in short, the Rules) in respect of exempted income.

3. It was the contention of the assessee before the A.O. as well as before the Ld. CIT(A) to the effect that during the year under consideration, there was no exempt income, accordingly, no disallowance can be made. However, the A.O. did not agree and made disallowance U/s 14A r.w.r 8D. As per our considered view, the provisions of Section 14A provides that if there is any income which does not form part of the total income under the Act, the expenditure which is incurred for earning such income is not an allowable deduction. Hence, in the absence of any tax-free income, the corresponding expenditure, if any, could not be worked out for disallowance. Since the assessee did not earn any exempt income in the form of dividend from its investment in the company, no disallowance can be made with reference to such investment in the calculation prescribed under Rule 8D of the Rules. In this regard, reliance can be placed on the following judicial pronouncements:

- (i) Oil Industry Development Board (2019) 103 taxmann.com 326 (SC).
- (ii) Jayneer Infrapower & Multiventures (P) Ltd. (2019) 103 taxmann.com 118 (Mum-Trib)
- (iii) Chemninvest Ltd. (2015) 61 taxmann.com 118 (Delhi).

4. Respectfully following the above judicial pronouncements, I do not find any merit in the disallowance so made when no exempt income was earned during the year under consideration.

5. In the result, appeal of the assessee is allowed.

Order pronounced in the open court on 11<sup>th</sup> June, 2019.

Sd/-  
(रमेश सी शर्मा)  
(RAMESH C SHARMA)  
लेखा सदस्य / Accountant Member

जयपुर / Jaipur

दिनांक / Dated:- 11<sup>th</sup> June, 2019

\*PP, SPS

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

1. अपीलार्थी / The Appellant- M/s Sofcom Systems Ltd., Jaipur
2. प्रत्यर्थी / The Respondent- The I.T.O. Ward 6(4), Jaipur
3. आयकर आयुक्त / CIT
4. आयकर आयुक्त(अपील) / The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
6. गार्ड फाईल / Guard File (ITA No. 258/JP/2019)

आदेशानुसार / By order,

सहायक पंजीकार / Asst. Registrar