

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

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER &
Ms. MADHUMITA ROY, JUDICIAL MEMBER**

ITA No. 2327/Ahd/2017
(Assessment Year : 2014-15)

The ACIT,
Circle – 2(1)(1),
Ahmedabad.

Vs. M/s. Gujarat State Financial
Corporation,
Jal Darshan Building,
Opp. Natraj Theatre,
Ashram Road, Ahmedabad.

[PAN No. AAACG 5609 C]

(Appellant)

..

(Respondent)

Appellant by : Shri L. P. Jain, Sr. D.R.
Respondent by : Shri P. F. Jain, A.R.

Date of Hearing 01.08.2019
Date of Pronouncement 06.08.2019

ORDER

PER Ms. MADHUMITA ROY - JM:

The instant appeal filed by the Revenue is directed against the order dated 25.07.2017 passed by the Commissioner of Income Tax (Appeals) - 2, Ahmedabad arising out of the order dated 21.06.2016 passed by the Learned DCIT, Circle-2(1)(1), Ahmedabad under section 143(3) of the Income Tax Act, 1961 (hereinafter referred as to “the Act”) for the Assessment Year 2014-15.

2. The assessee company engaged in the business of providing financial assistance to industrial units, filed its return of income on 25.09.2014 for A.Y. 2014-15 declaring loss at Rs.(-) 1,24,34,01,133/-. Upon scrutiny notice u/s 143(2) dated 03.09.2015 was issued followed by a notice dated 08.04.2016 u/s 143(2) r.w.s. 129 due to change of incumbent and served upon the assessee. The said assessment was finalized inter alia upon making

disallowances of Rs.70,19,014/- u/s 14A r.w.s 8D of the Act and added back to the total income of the assessee, which was in turn deleted by the Learned CIT(A). Hence, the instant appeal before us.

3. The case of the assessee is this that the assessee has received dividend income on share of Rs.17,26,532/-. The details of investment in shares and working of disallowance under section 14A r.w.r. 8D of the Act as filed by the assessee was not found acceptable by the Learned AO. It is relevant to mention that the assessee itself has suo moto disallowed Rs.3,80,02,442/-. Taking into consideration the entire aspect of the matter, the Learned AO disallowed Rs.70,19,014/- upon application of section 14A r.w.r. 8D of the Act. While doing so, the suo moto disallowance of Rs.3,80,02,442/- has been adjusted from the total disallowance of Rs.4,50,21,456/-/- as worked out by the Learned AO. It is a settled principle of law that the disallowance u/s 14A r.w.r. 8D cannot exceed the amount of dividend income and on the basis of such principle the Learned CIT(A) deleted the addition since the assessee has already suo moto disallowed of Rs.3,80,02,442/-. Thus the disallowance made by the Learned AO to the tune of Rs.70,19,014/- invoking the provision of Section 14A r.w.r. 8D was not found justifiable and the same was deleted by the Learned CIT(A) in appeal.

4. At the time of hearing of the instant appeal, the Learned AR submitted before us that the issue is squarely covered in assessee's own case for A.Y. 2012-13 whereby and whereunder such addition made by the Learned AO has been deleted by the Learned CIT(A). A copy whereof has also been submitted before us. However, the Learned DR has not been able to make out any better case against such contentions made by the Learned AR.

5. Heard the respective parties, perused the relevant materials available on record and also considered the order passed by the Co-ordinate Bench in Assessee's own case in

ITA No.1494/Ahd/2016 for A.Y. 2012-13 where identical addition in the identical set of facts made by the Learned AO applying section 14A r.w.r. 8D has been deleted. Hence we find no ambiguity in the order impugned so as to warrant interference. The order is thus passed in the affirmative i.e. in favour of the assessee and against the Revenue. Hence, Revenue's appeal is dismissed.

6. In the result, Revenue's appeal is dismissed.

This Order pronounced in Open Court on

06/08/2019

Sd/-
(WASEEM AHMED)
ACCOUNTANT MEMBER

Sd/-
(Ms. MADHUMITA ROY)
JUDICIAL MEMBER

Ahmedabad; Dated 06/08/2019

Priti Yadav, Sr.PS

आदेश की प्रतिलिपि अद्येषित/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, Ahmedabad.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

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आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad