

IN THE INCOME TAX APPELLATE TRIBUNAL

“C” BENCH : BANGALORE

BEFORE SHRI ARUN KUMAR GARODIA, ACCOUNTANT MEMBER AND
SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER

ITA No. 412/Bang/2018
Assessment Year : 2014-15

M/s. V.S.T. Tillers Tractors Ltd., No. 4801, White Road, Mahadevapura, Bangalore – 560 048. PAN: AAACV5930H	Vs.	The Assistant Commissioner of Income-tax, Circle – 7 (1) (2), Bangalore.
APPELLANT		RESPONDENT
Assessee by	:	Smt. Pratibha .R, Advocate
Revenue by	:	Shri M. Rajasekhar, Addl. CIT (DR)
Date of hearing	:	17.07.2019
Date of Pronouncement	:	09.08.2019

ORDER

Per Shri A.K. Garodia, Accountant Member

This appeal is filed by the assessee which is directed against the order of Id. CIT(A)-7, Bangalore dated 04.12.2017 for Assessment Year 2014-15.

2. The grounds raised by the assessee are as under.

“1. On the facts and in the circumstances of the case, the learned Commissioner of Income-tax (Appeals) erred in upholding the disallowance u/s.14A of the Act as made by the assessing authority.

2. The learned Commissioner (A) erred in holding that the non-interest bearing funds available to the appellant was inadequate for the investment made from which the exempted income had been derived to justify the application u/s.14A r.w.Rule 8D of the IT Rules.

3. The learned Commissioner (A) without prejudice erred in considering the dealer deposits for considering the application of Sec 14A without appreciating that the dealer deposits were offered in the course of business and for the purpose of business and accordingly the interest payment was not required to be considered for determination of disallowance under section 14A of the Act.

4. On the facts the learned Commissioner (A) ought to have accepted the explanation offered by the appellant and refrained from disallowing Rs.48,41.106/- under section 14A of the Act.

5. Without prejudice the disallowance is excessive, arbitrary and unreasonable and liable to be deleted in toto.

6. The learned Commissioner (A) erred in confirming the interest u/s.234B of the Act.

7. For these and other grounds that may be urged at the time of hearing of the appeal the appellant prays that the appeal may be allowed.”

3. In course of hearing, it is submitted by Id. AR of assessee that on page no. 18 of the paper book is the balance sheet of the assessee company as on 31.03.2014 as per which it can be seen that own funds being share capital, reserves & surplus is of Rs. 3,12,15,05,392/- and the investment is only Rs. 1,02,14,29,850/- and therefore, no disallowance u/s. 14A r.w.Rule 8D can be made out of interest expenditure. Regarding disallowance out of administrative expenses also, she submitted that on page no. 56 of the paper book, it can be seen that amount of exempt income declared by the assessee in the return of income is Rs. Nil and therefore, no disallowance u/s. 14A is called for as per the judgment of Hon'ble Delhi High Court rendered in the case of Cheminvest Ltd. Vs. CIT as reported in (2015) 378 ITR 33 (Delhi). At this juncture, the bench wanted to see the computation of income filed by the assessee along with the return of income to find out whether any income is claimed as exempt income. In reply, it was submitted by Id. AR of assessee that the same is not readily available but assessee assured to file after the hearing is over and the same is furnished by Id. AR of assessee on 18.07.2019 and from the same, it is seen that the assessee has claimed in the return of income that an amount of Rs. 5,82,32,953/- has been received as dividend and the same was claimed as exempt u/s. 10(34) of the IT Act and ultimately, the taxable income was worked out at Rs. 1,10,17,78,390/- and as per the return of income filed by the assessee copy available on page no. 10 of the paper book, the assessee has declared this income of Rs. 1,10,17,78,390/- and hence, it is seen that this contention of Id. AR of assessee is not correct that there is no exempt income in the present year. The Id. DR of revenue supported the orders of authorities below.
4. We have considered the rival submissions. We find that as per the assessment order, disallowance is made of Rs. 48,41,106/- u/s. 14A r.w.Rule

8D but this working of this disallowance of Rs. 48,41,106/- is not available on record as to how much disallowance is out of interest expenditure and how much disallowance is in respect of administrative expenses. As per the facts brought on record by the assessee, it is seen that the own funds is more than the amount of investment and therefore, respectfully following the judgment of Hon'ble Delhi High Court rendered in the case of Cheminvest Ltd. Vs. CIT (Supra), we hold that no disallowance is called for u/s. 14A out of interest expenditure. But we restore this matter back to the file of AO for fresh decision in respect of disallowance out of administrative expenses as per Rule 8D (i) & (iii). The AO should not make any disallowance out of interest expenditure and he should restrict the disallowance in respect of direct expenditure as per clause (i) of Rule 8D and administrative expense as per clause (iii) of Rule 8D but no disallowance should be made under clause (ii) of Rule 8D. The AO should pass necessary order as per law as per above discussion after providing adequate opportunity of being heard to assessee.

5. In the result, the appeal filed by the assessee is partly allowed for statistical purposes.

Order pronounced in the open court on the date mentioned on the caption page.

Sd/-
(PAVAN KUMAR GADALE)
Judicial Member

Sd/-
(ARUN KUMAR GARODIA)
Accountant Member

Bangalore,
Dated, the 09th August, 2019.
/MS/

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| 1. Appellant | 4. CIT(A) |
| 2. Respondent | 5. DR, ITAT, Bangalore |
| 3. CIT | 6. Guard file |

By order

Assistant Registrar,
Income Tax Appellate Tribunal,
Bangalore.