

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

'B' BENCH, CHENNAI

श्री एन.आर.एस. गणेशन, न्यायिक सदस्य एवं श्री इंटूरी रामा राव, लेखा सदस्य केसमक्ष

BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND
SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.2723/Chny/2017

निर्धारण वर्ष /Assessment Year : 2013-14

M/s Subramanian Engineering Ltd.,
11, College Lane, Linden Towers,
Chennai - 600 006.

v. The Deputy Commissioner of
Income Tax,
Corporate Circle – 6(2),
Chennai - 600 034.

PAN : AAICS 9342 L

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri S. Harish Kumar, Advocate

प्रत्यर्थी की ओर से/Respondent by : Shri V.M. Mahidar, JCIT

सुनवाई की तारीख/Date of Hearing : 07.08.2019

घोषणा की तारीख/Date of Pronouncement : 03.09.2019

आदेश /O R D E R

PER N.R.S. GANESAN, JUDICIAL MEMBER:

This appeal of the assessee is directed against the order of the Commissioner of Income Tax (Appeals) -15, Chennai, dated 29.08.2017 and pertains to assessment year 2013-14.

2. The first issue arises for consideration is disallowance of ₹12,38,893/- under Section 14A of the Income-tax Act, 1961 (in short 'the Act').

3. We heard Shri S. Harish Kumar, the Ld.counsel for the assessee and Shri V.M. Mahidar, the Ld. Departmental Representative. The Assessing Officer found that there was a huge investment to the extent of ₹44,80,05,388/- in the mutual funds. The Assessing Officer has also found that the assessee has earned dividend income to the extent of ₹63,07,489/- and claimed exemption. The Assessing Officer by applying Rule 8(2) of the Income-tax Rules, 1962, more particularly limb (iii), found that 0.5% of the average total investment was ₹12,38,893/-. Accordingly, he disallowed the same. In addition to this, the Assessing Officer has also disallowed the entire expenditure claimed by the assessee to the extent of ₹1,57,48,031/-. The Ld.counsel for the assessee by producing a copy of the order of the Assessing Officer for the assessment year 2012-13, pointed out that a similar expenditure claimed by the assessee was disallowed by the Assessing Officer on the ground there was no business activity. The CIT(Appeals) found that merely because no business income was reported that does not mean that there was no business activity. Therefore, according to the Ld. counsel, the disallowance of ₹1,57,48,031/- is no justified. Referring to the order of the Assessing Officer, the

Ld.counsel pointed out that the Assessing Officer disallowed the claim of ₹1,57,48,031/- on the ground that a similar expenditure was disallowed for the assessment year 2012-13. The fact that the CIT(Appeals) allowed similar claim for the assessment year 2012-13 is not considered by the Assessing Officer at all. The Department has not filed any appeal against the order of the CIT(Appeals) for the assessment year 2012-13 and it attained finality. Therefore, according to the Ld. counsel, the Assessing Officer cannot place reliance on his own order for the assessment year 2012-13.

4. The issue arises for consideration is disallowance of ₹12,38,893/- under Section 14A of the Act and disallowance of ₹1,57,48,031/- towards business expenditure. As rightly submitted by the Ld.counsel for the assessee, the Assessing Officer by placing reliance on his own order for the assessment year 2012-13, found that there was no business income admitted by the assessee. Therefore, he disallowed the expenditure. The fact remains that the CIT(Appeals), on appeal by the assessee, allowed the claim of the assessee. Therefore, the Assessing Officer is not justified in

placing his reliance on his own order for the assessment year 2012-13.

5. Moreover, in respect of disallowance made under Section 14A of the Act, the assessee claimed the investment made in mutual funds. The Assessing Officer has to bring on record how the dividend income earned by the assessee is exempted from taxation. In view of the above, this Tribunal is of the considered opinion that the matter needs to be re-examined by the Assessing Officer. Accordingly, orders of both the authorities below are set aside and the entire issue raised by the assessee is remitted back to the file of the Assessing Officer. The Assessing Officer shall re-examine the matter in the light of the order of the CIT(Appeals) for the assessment year 2012-13 and also bring on record the exempt income earned by the assessee and thereafter decide the issue afresh in accordance with law, after giving a reasonable opportunity to the assessee.

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

Order pronounced in the court on 3rd September, 2019 at
Chennai.

sd/-
(इंटूरी रामा राव)
(Inturi Rama Rao)
लेखा सदस्य/Accountant Member

sd/-
(एन.आर.एस. गणेशन)
(N.R.S. Ganesan)
न्यायिक सदस्य/Judicial Member

चेन्नई/Chennai,
दिनांक/Dated, the 3rd September, 2019.

Kri.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)-15, Chennai-34
4. Principal CIT- 6, Chennai
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF.