



ITA 5417/Mum/2018

A.Y.2014-15

Tarapur Synthetics Private Limited

आयकर अपीलीय अधिकरण “एक-सदस्य मजलम” न्यायपीठ मुंबई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC” BENCH, MUMBAI

मजनीय श्री महावीर सिंह, न्यायिक सदस्य एवं
माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।
BEFORE HON’BLE SHRI MAHAVIR SINGH, JM AND
HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM

आयकर अपील सं./ I.T.A. No.5417/Mum/2018

(निर्धारण वर्ष / Assessment Year:2014-15)

Tarapur Synthetics Private Limited 701, Tulsiani Chambers Free Press Journal Marg Nariman Point, Mumbai-400 021.	बनाम/ Vs.	Income tax Officer-3(3)(3) Aaykar Bhavan Mumbai-400 020.
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. AABCT-2020-R		
(पीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

Revenue by	:	Shri Akhtar H. Ansari & Saurabh Kumar Rai -Ld.DR.s
Assessee by	:	Shri J.P. Bairagra-Ld. AR

सुनवाई की तारीख/ Date of Hearing	:	16/09/2019
घोषणा की तारीख / Date of Pronouncement	:	30/09/2019

आदेश / ORDER

Per Bench: -

1. Aforesaid appeal by assessee for Assessment Year [AY] 2014-15 contest the order of Ld. Commissioner of Income-Tax (Appeals)-8, Mumbai, [in short referred to as ‘CIT(A)’], Appeal No. CIT-8/IT-287/16-17 dated 18/06/2018 on following grounds of appeal: -



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1. On the facts and in the circumstances of the case, and in law, the Ld. Commissioner of Income-Tax (Appeals)- has erred in confirming the disallowance of Rs.4,79,854/- made under Section 14A of the Income tax Act, 1961.
2. Further the same was added to the total income while calculating Minimum alternate Tax under section 115JB of the Income tax Act, 1961.
3. The appellant prays that the disallowance of Rs.4,79,854/- to be deleted.

As evident from grounds of appeal, the sole subject matter of present appeal is disallowance u/s 14A.

2.1 Facts on record would reveal that the assessee being resident corporate assessee stated to be engaged in the business of letting out of property was saddled with disallowance u/s 14A for Rs.4,79,854/- while computing income under normal provisions.

2.2 During assessment proceedings, it transpired that the assessee had made investment of Rs.77.08 Lacs, which called for disallowance u/s 14A. The assessee had not earned any exempt dividend during the year under consideration. The assessee had offered suo-moto disallowance of Rs.3.78 Lacs in the return of income. The said disallowance was added back while computing income under normal provisions as well as while computing Book Profits u/s 115JB. However, rejecting assessee's disallowance, Ld. AO, applying Rule 8D, computed aggregate disallowance of Rs.8.54 Lacs, which comprised-off of interest disallowance u/r 8D(2)(ii) for Rs.7.93 Lacs and administrative expense disallowance u/r 8D(2)(iii) for Rs.0.60 Lacs. After adjusting suo-moto disallowance of Rs.3.78 Lacs already offered by the assessee, net disallowance i.e. Rs.4.79 Lacs was added to the income of the assessee while computing income under normal provisions. The said disallowance, while computing Book Profit u/s 115JB, was made for



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Rs.8.54 Lacs overlooking the fact that suo-moto disallowance offered by the assessee was already added back in assessee's computations. The adjudication of Ld. AO, upon confirmation by first appellate authority, is under challenge before us.

3. We have carefully heard and considered the submissions made by both the representatives.

4. The undisputed position that emerges is the fact that the assessee has not earned any exempt income during the year under consideration and therefore, the additional disallowance as made by learned AO would not be sustainable in the eyes of law. The said proposition is well supported by the following binding judicial precedents: -

- (i) Hon'ble Supreme Court in CIT V/s Chettinad Logistics [95 Taxmann.com 250 SLP dismissed on 02/07/2018]
- (ii) Hon'ble Supreme Court in Pr.CIT V/s GVK Project & Technical Services Ltd. [264 Taxman 76 SLP dismissed on 03/05/2019]
- (iii) Hon'ble Supreme Court in Pr.CIT V/s Oil Industry Development Board [103 Taxmann.com 326 SLP dismissed on 08/02/2019]
- (iv) Hon'ble Supreme Court in CIT V/s Essar Teleholdings Ltd. [401 ITR 445]

Respectfully following the same, we hold that the additional disallowance of Rs.4.79 Lacs made by Ld. AO while computing income under normal provisions, would not be sustainable. Accordingly, we delete the same. Ground Nos. 1 & 3 stand allowed.

5. So far as the addition of disallowance u/s 14A while computing Book Profits u/s 115JB is concerned, we find that the suo-moto disallowance



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offered by the assessee was already added while computing Book Profits u/s 115JB. Since we have already deleted the additional disallowance u/s 14A as made by learned AO, no further disallowance would be required u/s 115JB. Ground No. 2 stand allowed.

6. Resultantly, the appeal stands allowed in terms of our above order.

Order pronounced in the open court on 30th September, 2019.

Sd/-

(Mahavir Singh)

न्यायिक सदस्य / **Judicial Member**

Sd/-

(Manoj Kumar Aggarwal)

लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 30/09/2019

Sr.PS:-Jaisy Varghese

आदेश की प्रतिलिपि ँ ग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त(अपील) / The CIT(A)
4. आयकरआयुक्त/ CIT– concerned
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, मुंबई/ DR, ITAT, Mumbai
6. गार्डफाईल / Guard File

आदेशानुसार/ BY ORDER,

उप/सहायकपंजीकार (Dy./Asstt.Registrar)
आयकरअपीलीयअधिकरण, मुंबई / ITAT, Mumbai.