

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 के समक्ष

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

आयकर अपील सं./I.T.A. No.1349/CHNY/2017

निर्धारण वर्ष /Assessment year : 2010-2011.

M/s. Wealth Advisors
(India) Pvt Ltd,
Lemuir House,
10 G N Chetty Road,
T. Nagar, Chennai 600 017.

Vs. The Assistant Commissioner
of Income Tax,
Company Circle 3(3)
Chennai.

[PAN AAACW 5266F]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by

: Shri. A.S. Sriraman, Advocate

प्रत्यर्थी की ओर से /Respondent by

: Shri. AR.V. Sreenivasan, JCIT.

सुनवाई की तारीख/Date of Hearing

:

21-10-2019

घोषणा की तारीख /Date of Pronouncement

:

19-11-2019

आदेश / ORDER

PER INTURI RAMA RAO, ACCOUNTANT MEMBER

This is an appeal filed by the Assessee directed against the order of the Commissioner of Income Tax (Appeals)-11, Chennai ('CIT(A)' for short) dated 27.02.2017 for the Assessment Year (AY) 2010-2011.

2. The Assessee raised the following grounds of appeal:

'1. The order of the learned CIT Appeals is contrary to the law on the facts and circumstances of the case.

2. The learned CIT Appeals erred in confirming the disallowance of Rs.74,369/- under Section 14A read with Rule 8D without appreciating the fact that no part of the expense was actually established to have been incurred for the purpose of earning tax exempt income.

3. The learned CIT Appeals ought to have followed the decision of the Honorable Appellate Tribunal, Chennai in the case NACP Ltd vs ACIT ITA No. 1919/Mds/2011 that unless there is a finding of the Assessing Officer that the suo moto disallowance of Rs. 10,000/- made by the Appellant was incorrect, no disallowance would lie as the ingredients for invoking the rule 8D are not satisfied. The Appellant also submits that the application of Rule 8D is not automatic and hence mechanical application of the same invoking the method of computation of disallowance is inconsistent with law and also facts and circumstances of the case.

For these and other reasons, which may be adduced at the time of hearing, the appellant prays that this appeal be allowed.

The appellant craves permission to add, alter or amend the aforesaid grounds of appeal”.

3. The brief facts of the case are as under:

The assessee namely "M/s. Wealth Advisors (India) Pvt Ltd" is a company incorporated under the provisions of the Companies Act, 1956. It is engaged in the business of financial product distribution and financial advisory services. The return of income for the assessment year 2010-2011 was filed on 11.10.2010 disclosing total income of Rs.48,26,341/-. Against the said return of income, the assessment was completed by the Assistant Commissioner of Income Tax, Company Circle-III(3), Chennai (hereinafter called as

“Assessing Officer”) passed u/s.143(3) of the Act on 26.12.2012 at total income of Rs.52,32,870/-. While doing so, the Assessing Officer made disallowance of 10% of the staff welfare expenditure to the extent of Rs.3,32,162/- and made addition of Rs.84,369/- u/s.14A of the Act.

4. Being aggrieved, an appeal was preferred before the Id.CIT(A) who vide impugned order deleted the addition on account of staff welfare expenditure and confirmed the addition made u/s.14A of the Act.

5. Being aggrieved, the appellant is in appeal before us in the present appeal. The Id. Counsel submitted that ground relating to the non recording of satisfaction by the Assessing Officer as to how the suo motu disallowance offered by the assessee is incorrect was not adjudicated by the Id. Commissioner of Income Tax (Appeals). He further submitted that no expenditure was incurred for earning exempt income and therefore the question of disallowance does not arise.

6. On the other hand, the Id. Sr. Departmental Representative placed reliance on the orders of lower authorities.

7. We heard the rival submissions and perused the material on record. The issue in the present appeal relates to disallowance u/s.14A of the Act. From the perusal of the material on record, it appears that assessee itself had offered suo motu disallowance of

Rs.10,000/- u/s.14A of the Act. The provisions of Section 14A of the Act mandates the Assessing Officer to record satisfaction as to how the claim made by the assessee is incorrect. Assessee had raised specific ground of appeal before the Id. Commissioner of Income Tax (Appeals) regarding non recording of the satisfaction. However, the Id. Commissioner of Income Tax (Appeals) had failed to adjudicated this ground of appeal, since this ground of appeal goes to the root of the matter, we are of the considered opinion that the matter should go back to the file of the Id. Commissioner of Income Tax (Appeals) for fresh adjudication and all other contentions are left open before Id. Commissioner of Income Tax (Appeals).

8. In the result, the appeal filed by the assessee is partly allowed for statistical purpose.

Order pronounced on 19th day of November, 2019, at Chennai.

Sd/-

(एन.आर.एस. गणेशन)

(N.R.S. GANESAN)

न्यायिक सदस्य/**JUDICIAL MEMBER**

Sd/-

(इंटूरी रामा राव)

(INTURI RAMA RAO)

लेखा सदस्य/**ACCOUNTANT MEMBER**

चेन्नई/Chennai

दिनांक/Dated: 19th November, 2019

KV

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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| 1. अपीलार्थी/Appellant | 3. आयकर आयुक्त (अपील)/CIT(A) | 5. विभागीय प्रतिनिधि/DR |
| 2. प्रत्यर्थी/Respondent | 4. आयकर आयुक्त/CIT | 6. गार्ड फाईल/GF |