

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ, अहमदाबाद ।
**IN THE INCOME TAX APPELLATE TRIBUNAL
"C" BENCH, AHMEDABAD**

**BEFORE SHRI RAJPAL YADAV,
HON'BLE JUDICIAL MEMBER
AND
SHRI WASEEM AHMED
HON'BLE ACCOUNTANT MEMBER
ITA.No.2356/Ahd/2017
निर्धारण वर्ष/Asstt.Year : 2002-03**

Gujarat Gas Company Ltd. (Amalgamated with Gujarat Gas Limited), 2, Shanti Sadan Society Opp: Parimal Garden Ellisbridge, Ahmedabad 380 006. PAN : AAECG 8093 Q	Vs	DCIT, Gandhinagar Cir. Gandhinagar.
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अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)
Assessee by :		Shri Bandish Soparkar, AR
Revenue by :		Dileep Kumar, Sr.DR

सुनवाई की तारीख/Date of Hearing : 27/11/2019
घोषणा की तारीख /Date of Pronouncement: 28/11/2019

आदेश/O R D E R

PER RAJPAL YADAV, JUDICIAL MEMBER

Assessee is in appeal before the Tribunal against order of Id.CIT(A), Gandhinagar, dated 30.8.2017 passed for the Asstt.Year 2002-03.

2. Grievance of the assessee is that the Id.CIT(A) has erred in confirming disallowance of Rs.20,18,871/- under section 14A of the Income Tax Act, 1961. The assessee has further pleaded that the Id.CIT(A) has erred in levying interest under section 234B/C/D of the Act.

3. With the assistance of the Id.representatives, we have gone through the record. The Id.counsel for the assessee at the very outset pointed out that

assessment year involved is A.Y.2002-03 i.e. a year much prior to applicability of Rule 8D for quantifying the expenses required to be disallowed under section 14A of the Act. He further pointed out that on the basis of earlier years finding the Id.CIT(A) has held that expenses attributable to earning of exempt income are to be quantified at 2% of the exempt income. In this year, the total exempt income earned by the assessee is Rs.10.09 crores, and accordingly the disallowance has been restricted to Rs.20,18,871/- . It has been also brought to our notice that the Id.CIT(A) has followed the order of the ITAT passed in the Asstt.Year 2005-06, wherein 2% of exempt income was upheld for disallowance. The Id.counsel for the assessee pointed out that order of the ITAT passed in ITA No.1950/Ahd/2011 has been upheld by the Hon'ble Gujarat High Court by which 2% of the exempt income has been upheld as reasonable amount for estimated disallowance required to be made under section 14A of the Act.

4. On due consideration of the above facts and circumstances, we are of the view that since the Id.CIT(A) has followed order of the ITAT, which has been upheld by the Hon'ble High Court, and therefore, the estimated quantification of 2% disallowance worked out by the Id.CIT(A) on the strength of ITAT's order does not call for any interference. Accordingly, this ground of appeal is rejected. So far as charging of interest is concerned, it is consequential in nature. Accordingly, both the grounds are rejected.

5. In the result, appeal of the assessee is rejected.

Order pronounced in the Court on 28th November, 2019 at Ahmedabad.

Sd/-
(WASEEM AHMED)
ACCOUNTANT MEMBER

Sd/-
(RAJPAL YADAV)
JUDICIAL MEMBER

Ahmedabad; Dated 28/11/2019