

आयकर आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई  
IN THE INCOME TAX APPELLATE TRIBUNAL , 'C' BENCH, CHENNAI  
श्री धुव्वुरु आर.एल रेड्डी, न्यायिक सदस्य एवं श्री एस जयरामन, लेखा सदस्य के समक्ष  
BEFORE SHRI DUVVURU RL REDDY, JUDICIAL MEMBER AND  
SHRI S. JAYARAMAN, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.251/Chny/2019

निर्धारण वर्ष /Assessment Year: 2014-15

**Dr.Venkatramani Sumantran,**  
Plot No.67, 19<sup>th</sup> Street,  
Venkateswara Nagar, Kottivakkam,  
Chennai – 600 042.

**Vs.** The ACIT,  
Non-Corporate Circle 15,  
Chennai.

**PAN: AAKPS5105J**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by

: Shri S. Nagarajan, CA

प्रत्यर्थी की ओर से /Respondent by

: Shri J. Pavitran Kumar, JCIT

सुनवाई की तारीख/Date of Hearing

: 12.09.2019

घोषणा की तारीख /Date of Pronouncement

: 28.11.2019

**आदेश / O R D E R**

**PER SHRI S. JAYARAMAN, ACCOUNTANT MEMBER:**

The assessee filed this appeal against the order of the Commissioner of Income Tax (Appeals)-16, Chennai in ITA No.534/CIT(A)-16/2016-17 dated 10.12.2018 for the assessment year 2014-15.

2. Shri V. Sumantran, the assessee, an individual admitted income from salary, consultancy services, short term capital gains, long term capital gains with indexation and income from other sources. While making the assessment for the assessment year 2014-15, the Assessing Officer invoked the jurisdiction U/s.14A r.w.r. 8D and made a disallowance of Rs.6,79,094/- U/s. 8D(iii). Aggrieved against that order, the assessee filed an appeal before the CIT(A). The Id.CIT(A) dismissed the appeal. Aggrieved against that order, the assessee filed this appeal.

3. The Id.AR submitted that the assessee is maintaining books of account only for his professional income i.e., consultancy services. Since the gross receipts exceeded the limits mentioned in Section 44AB, the books of account have been audited in respect of the professional income and the tax audit report in Form 3CA and 3CB has been submitted before the Assessing Officer along with return. The assessee has been making investments from his personal account which is being monitored by him directly by his wealth advisors. In this regard, the assessee does not employ any staff or use other infrastructure towards such activity. The investments as well as the income from them are not included in the books of account maintained

for professional activity. The Id.AR invited our attention to Para 3.4 to 3.6 of the order of the appellate order, which is extracted as under:-

*3.4 The Appellant would like to submit the details of the assets as per the balance sheets submitted to the Assessing Officer, as per the table given below:*

<i>Details of Assets</i>	<i>As at 31.3.2014</i>	<i>As at 31.3.2013</i>
<i>Fixed Assets</i>	<i>25,64,309</i>	<i>14,95,702</i>
<i>Current Assets</i>		
<i>Tax payments pending adjustment</i>	<i>2,97,60,185</i>	<i>2,26,20,915</i>
<i>Sundry Debtors</i>	<i>1,53,540</i>	<i>1,38,318</i>
<i>Bank Balances</i>	<i>1,28,045</i>	<i>1,75,950</i>
<i>Rental Advance</i>	<i>2,00,000</i>	<i>2,00,000</i>
<i>Salary Advance</i>	<i>-</i>	<i>10,000</i>
<i>Total Assets</i>	<i>3,28,06,079</i>	<i>2,46,40,885</i>

*3.5 As already submitted, the Appellant is not maintaining the accounts relating to the investment activity in the books of accounts maintained and audited for professional activity. From the details of the balance sheet given above, and also copy enclosed to these submissions, it can be seen that neither the value of investments nor its income is included in the assets and income of the accounts maintained for professional purposes.*

*3.6 The opening and closing value of the investments, which are not included in the books of accounts relating to professional activity, was furnished by the assessee during the course of the assessment proceedings and the Assessing Officer has made the impugned*

*disallowance calculated at one half per cent of the average of the opening and closing value of investments.*

Inviting our attention to the above, the Id.AR submitted that it is clear from the above that the assessee is not maintaining the accounts relating to the investment activity in the books of account maintained and audited for professional activity. Neither the value of investments nor its income was included as the assets or income of the accounts maintained for professional purposes. Therefore, the Assessing Officer should not have invoked the provisions of Section 14A r.w.r.8D, when the assessee has not claimed any expenditure related to these investments in the accounts maintained for professional activity. Per contra, the Id.DR supported the order of the Id.CIT(A).

4. We heard the rival submissions and gone through the relevant material. It is clear from the above that the assessee has maintained books of account only for professional income. The assessee has made the investments from his personal account which was being monitored by him directly by his wealth advisors and he did not engage any staff or use other infrastructure towards the investment activity. Since, the investments as well as the income from such investments were not included in the books of account maintained for

professional activity and the expenditure related to such activity was also not claimed by the assessee, the Assessing Officer cannot invoke the jurisdiction U/s.14A r.w.r.8D with regard to the books of account maintained for professional income. We also find from the order of the Assessing Officer that he has not even mentioned the above facts in the order but merely invoked the jurisdiction U/s.14A r.w.r.8D. In the facts and circumstances, the addition made by the Assessing Officer and as upheld by the Id.CIT(A) are not sustainable and hence, we delete the addition.

5. In the result, the assessee's appeal is allowed.

Order pronounced in the Court on 28<sup>th</sup> November, 2019 in Chennai.

Sd/-

(धुव्वुरु आर एल रेड्डी)  
(Duvvuru R.L Reddy)

न्यायिक सदस्य/Judicial Member

Sd/-

( एस जयरामन )  
(S. Jayaraman)

लेखा सदस्य /Accountant Member

चेन्नई/Chennai,

दिनांक/Dated 28<sup>th</sup> November, 2019

**RSR**

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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