



ITA No.1184/Mum/2017  
Binayak Tex Processors Ltd.  
Assessment Year :2012-13

**आयकर अपीलीय अधिकरण “बी” न्यायपीठ मुंबई में।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**“B” BENCH, MUMBAI**

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

आयकर अपील सं./ I.T.A. No 1184/Mum/2017  
(निर्धारण वर्ष / Assessment Year: 2012-13)

<b>Binayak Tex Processors Ltd.</b> C/o Shankarlal Jain & Associates LLP 12, Engineer Building, 265 Princess Street, Mumbai – 400 002	<b>बनाम/</b> Vs.	<b>DCIT Central Circle – 6(3)</b> AIR Bldg, 19 <sup>th</sup> Floor Nariman Point Mumbai – 400021.
स्थायी लेखासं./जी आइ आर सं./PAN/GIR No. <b>AAACB-1554-D</b>		
(पीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

<b>Assessee by</b>	:	Mr. Shankarlal Jain- Ld. AR
<b>Revenue by</b>	:	Ms. Kavita P. Kaushik-Ld.DR

सुनवाई की तारीख/ <b>Date of Hearing</b>	:	30/01/2020
घोषणा की तारीख / <b>Date of Pronouncement</b>	:	05/02/2020

**आदेश / O R D E R**

**Manoj Kumar Aggarwal (Accountant Member)**

1. Aforesaid appeal by assessee for Assessment Year [in short referred to as ‘AY’] 2012-13 contest the order of Ld. Commissioner of Income-Tax (Appeals)-54, Mumbai, [in short referred to as ‘CIT(A)’], *Appeal No. CIT(A)-54/DCCC-6(3)/IT-03/15-16 dated 19/12/2016* on following grounds of appeal: -



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1. Ld. CIT(A) erred in confirming disallowance of Rs. 3,68,550/- made u/s 14A r.w.r. 8D(2)(iii) of the Income Tax Act, without properly appreciating the facts of the case and law applicable thereto.
2. The Ld. CIT(A) should have appreciated that appellant received dividend of Rs.2,000/- on investment of Rs.10,000/- made in shares in Saraswat Co-Op. Bank Ltd. such dividend received not being exempt u/s 10(34) of the Income Tax Act, the appellant has not earned any exempt income, hence provision of section 14A are inapplicable.
3. Ld. CIT(A) erred in not considering the facts that out of the total investment of Rs.7,37,10,000/- investment of Rs. 7,37,00,000/- are strategic investments made in earlier assessment years, without any variance and no dividend being received on the same and being made for business purposes, no disallowance under Rule 8D(2)(iii) is applicable on the same.

As evident, the sole subject matter of appeal before us is disallowance u/s 14A.

2.1 Facts on record would reveal that the assessee being resident corporate assessee stated to be engaged in textile manufacturing was assessed for year under consideration u/s 143(3) on 18/03/2015 wherein it was saddled with disallowance u/s 14A for Rs.28.07 Lacs.

2.2 During assessment proceedings, it transpired that the assessee had made share investments in group entities but did not offer any suo-moto disallowance u/s 14A while computing the total income. The assessee submitted that it received meagre dividend of Rs.2,000/- from a co-operative bank which was already offered to tax and since no expenditure was incurred to earn the dividend income, the provisions of Sec.14A were not applicable. However, rejecting the same, Ld. AO computed aggregate disallowance of Rs.28.07 Lacs which comprised-off of interest disallowance u/r 8D(2)(ii) for Rs.24.38 Lacs and expense disallowance u/r 8D(2)(iii) for Rs.3.68 Lacs.

3. Before Ld. CIT(A), the assessee reiterated the submissions that since no exempt income was earned during the year, no disallowance



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u/s 14A would be warranted. The Ld. CIT(A) relying upon its predecessor's order for AY 2011-12 deleted interest disallowance but confirmed the expenses disallowance of Rs.3.68 Lacs. Aggrieved, the assessee is under further appeal before us.

4. Upon due consideration of factual matrix as enumerated hereinabove, the undisputed position that emerges is the fact that the assessee has earned meagre dividend income of Rs.2,000/- only and that too has been offered to tax since the same was received from a co-operative bank and therefore, not an exempt income. In other words, the assessee did not earn any exempt income during the year. This being the case, no disallowance u/r 8D(2)(iii) would be justified. Therefore, by deleting the expense disallowance of Rs.3.68 Lacs as confirmed by Ld. CIT(A), we allow the appeal.

5. The appeal stands allowed.

*Order pronounced in the open court on 05<sup>th</sup> February, 2020.*

**Sd/-**  
**(Mahavir Singh)**  
उपाध्यक्ष / **Vice President**

**Sd/-**  
**(Manoj Kumar Aggarwal)**  
लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 05/02/2020  
Sr.PS, Jaisy Varghese

**आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent



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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/सहायक पंजीकार (Dy./Asstt.Registrar)  
आयकरअपीलीयअधिकरण, मुंबई / ITAT, Mumbai.