

आयकर अपीलीय अधिकरण , 'ए/SMC' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

"A/SMC " BENCH, CHENNAI

श्री जॉर्जमाथन, न्यायिक सदस्य एवं श्री एस जयरामन, लेखा सदस्य समक्ष

BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER AND

SHRI S. JAYARAMAN, ACCOUNTANT MEMBER

आयकर अपील सं./I.T.A. No.569/Chny/2019

निर्धारण वर्ष/Assessment Year : 2013-14

M/s. S. Annamalai (BHUF),
118, Boopathy Buildings,
Virudhunagar Road,
Sivakasi – 626 123.

The Income Tax Officer,
Vs. Ward -4,
Virudhunagar.

[PAN: AADHS 9547K]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थीकीओरसे/Appellant by

: Shri. M. Kaushili, Advocate

प्रत्यर्थीकीओरसे/Respondent by

: Shri. A R V Sreenivasan, JCIT

सुनवाईकीतारीख/Date of Hearing

: 19.12.2019

घोषणाकीतारीख/Date of Pronouncement

: 09.03.2020

आदेश/ O R D E R

PER S. JAYARAMAN, ACCOUNTANT MEMBER :

The assessee filed this appeal against the order of Commissioner of Income Tax (Appeals)-1, Madurai, in ITA No. 101/2016-17 dated 28.01.2019 for assessment year 2013-14.

2. M/s. S. Annamalai, a big HUF. While making the assessment for assessment year 2013-14, the assessee claimed dividend income at Rs. 1,59,954/-. The AO computed disallowance u/s. 14A r.w.r. 8D at Rs. 25,50,600/-. Aggrieved, the assessee filed an appeal before the CIT(A). The Ld. CIT(A) dismissed the appeal. Aggrieved against that order, the assessee filed this appeal.

3. The Ld. AR submitted that the assessee has a big HUF firm, and also partners in partnership concern having deposit/loan accounts with various firms and also having shares of various companies. The assessee's income comprises interest and dividend income from the companies. The assessee's capital as on 31.03.2013 was at Rs. 4.2 crores, whereas, the investment in shares was at Rs. 2.84 crores only. These investments were made long back and none of the investments were made during the assessment year. The assessee borrowed loan only in the preceding assessment year i.e., in the assessment year 2012-13 and the Income Tax Officer verified the nexus of the interest expenses with purchase of land and hence disallowed the entire interest expenditure of Rs. 9,46,855/- in the assessment made for the assessment year 2012-13 u/s. 143(3) dated 21.03.2015. The Assessing Officer has also failed to consider the facts that in the computation statement, though the assessee has arrived interest loss of Rs.

16,23,795/-, it has not claimed any interest expenditure in the return. Therefore, the Assessing Officer should not have disallowed any expenditure when the assessee itself has not claimed expenditure in its return, and hence pleaded to allow the appeal. In this regard, the Ld. AR invited our attention to the statement of total income, copies of balance sheet etc. Per contra, the Ld. DR supported the orders of the lower authorities.

4. We heard the rival submissions and gone through the relevant material. The assessee is pleading that its capital as on 31.03.2013 was at Rs. 4.27 crores, while its investments in shares on that date was at Rs. 2.81 crores only, all these investments were made long back, the assessee has not borrowed any loan towards any investment which earned exempt income and it has not claimed any interest expenditure as an expenditure from any of its income and therefore, section 14A r.w.r. 8D is not applicable. Since these aspects have not been examined, we are of the view that this issue requires a fresh examination. Therefore, we remit the issue back to the AO for a fresh examination. The assessee shall lay relevant materials in support of its contention before the AO and comply with the requirements of the AO in accordance with law. The AO is free to conduct appropriate enquiry as deemed fit, but he shall

furnish adequate opportunity to the assessee on the material etc to be used against it and decide the matter in accordance with law.

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

Order pronounced on Monday, 09th March, 2020 at Chennai.

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| Sd/- (जॉर्जमाथन) (GEORGE MATHAN) न्यायिकसदस्य/Judicial Member | Sd/- (एसजयरामन) (S. JAYARAMAN) लेखासदस्य/Accountant Member |
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चेन्नई/Chennai,

दिनांक/Dated: 09th March, 2020

JPV

आदेशकीप्रतिलिपिअग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त) अपील(/CIT(A)
4. आयकरआयुक्त/CIT
5. विभागीयप्रतिनिधि/DR
6. गार्डफाईल/GF