

आयकर अपीलीय अधिकरण, दिल्ली न्यायपीठ "जी", दिल्ली में  
IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'G', NEW DELHI

सुश्री सुषमा चावला, उपाध्यक्ष एवं श्री प्रशान्त महर्षि, लेखा सदस्य के समक्ष  
BEFORE MS. SUSHMA CHOWLA, VP & SH. PRASHANT MAHARISHI, AM

आयकर अपील सं. / ITA No.9231/Del/2019

निर्धारण वर्ष / Assessment Year 2016-17

M/s Unipatch Rubber Ltd.,  
10, Khemka House, Community Centre,  
Saket, South Delhi, New Delhi

PAN-AAACU0325P

.....अपीलार्थी/Appellant

vs.

ACIT, Special Range-9

New Delhi

.....प्रत्यर्थी/Respondent

अपीलार्थी की ओर से /Appellant by : Shri. S. Krishna, Advocate

प्रत्यर्थी की ओर से /Respondent by : Sh. H.K. Chaudhary, CIT (DR)

सुनवाई की तारीख / Date of Hearing : 16.03.2020	घोषणा की तारीख / Date of Pronouncement: 20.03.2020
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आदेश / ORDER

**PER SUSHMA CHOWLA, VP**

The appeal filed by assessee is against order of CIT(A)-9, New Delhi dated 30.09.2019 relating to assessment year 2016-17 against order passed under section 143(3) of the Income Tax Act, 1961.

2. The only issue raised in the present appeal is against disallowance under section 14A of the Income Tax Act, 1961 at Rs. 59,25,405/-.

3. The learned AR for the assessee pointed out that there are three aspects to the issue raised in the present appeal. The first aspect is non recording of satisfaction by the AO before making the aforesaid disallowance under section 14A of the Act. The next issue which arises is the computation of disallowance under section 14A read with Rule 8D of Income Tax Rules.

4. The learned AR for the assessee pointed out that assessee had sufficient interest free funds in the form of reserves and surplus and the current year profit to make the investments on which tax free income was received. He also pointed out that the disallowance computed under Rule 8D(2)(iii) is excessive as disallowance is to be made only on the value of investments to which the dividend income is attributable.

5. The learned DR for the Revenue placed strong reliance on the orders of the authorities below.

6. We have heard the rival contentions and perused the record. The limited issue which arises in the present appeal is against disallowance made under section 14A of the Act read with Rule 8D of the Income Tax Rules. As far as the disallowance of interest expenditure under Rule 8D(2)(ii) of the Rules is concerned, the learned AR for the assessee has referred to the balance-sheet of the assessee company. It is apparent that the reserves and surplus as on 31.03.2015 were Rs. 64.34 Crores and as on 31.03.2016 were Rs. 67,82 Crores as against the investment of Rs. 45.85 Crores and Rs.

54.62 Crores. Further the net profit after tax earned by the assessee company during the year under consideration was Rs. 15.85 Crores which can cover the investments made during the year of Rs. 19.04 Crores which is part of the total investments at Rs. 54.62 Crores at the close of the year. Applying the ratio laid down by the Hon'ble Apex Court in CIT vs. Reliance Industries Limited reported in 410 ITR 466 (SC), we find no merit in the aforesaid disallowance made on account of interest expenditure under Rule 8D(2)(ii) of Income Tax Rules. The same is deleted.

7. Now coming to the next disallowance made under Rule 8D(2)(iii) of the Income Tax Rules. The limited issue which has been raised by the assessee before us is that the disallowance, if any, is to be restricted to the investment to which the tax free income is attributable.

8. The Hon'ble Delhi High Court in the case of ACB India Ltd., vs. ACIT [2015] 374 ITR 108 (Delhi) has laid down the aforesaid proposition and held that for computing the disallowance under Rule 8D(2)(iii) the value of investment, was to be adopted at the investments to which the dividend income was attributable.

9. Applying the same parity of reasoning, we direct the AO to re-compute the disallowance under Rule 8D(2)(iii) of the Income Tax Rules in line with directions of the Hon'ble Delhi High Court in ACB India Ltd., vs. ACIT (supra).



10. Now coming to another aspect of the issue raised by the assessee i.e. non recording of satisfaction by the AO for making the aforesaid disallowance under section 14A of the Act. We find no merit in the said plea of the assessee and the same is rejected. Hence the grounds of appeal raised by the assessee are partly allowed.

11. In the result, the appeal of the assessee is partly allowed.

Order pronounced in the open court on 20<sup>th</sup> day of March, 2020.

Sd/-

(PRASHANT MAHARISHI)

लेखा सदस्य/ACCOUNTANT MEMBER

दिल्ली / दिनांक Dated : March, 2020

SH

आदेश की प्रतिलिपि अद्योषित/Copy of the Order is forwarded to:

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. मुख्य आयुक्त/ The Pr. CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, दिल्ली / DR, ITAT, Delhi
5. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

सहायक रजिस्ट्रार,  
आयकर अपीलीय अधिकरण ,दिल्ली /  
ITAT, Delhi

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