

आयकर अपीलिय अधिकरण, "बी" न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'B' BENCH, CHENNAI
श्री धुव्वुरु आर.एल रेड्डी, न्यायिक सदस्य एवं श्री एस जयरामन, लेखा सदस्य के समक्ष
Before Shri Duvvuru RL Reddy, Judicial Member &
Shri S. Jayaraman, Accountant Member

आयकर अपील सं./I.T.A. No.84/Chny/2019
निर्धारण वर्ष/**Assessment Year:2014-15**

Shri Kollur Sreenivasan Kamalakannan,
No. 1, Anna Pillai Street,
George Town, Chennai 600 001.

The Income Tax Officer,
Vs. Corporate Ward 4 (4),
Chennai.

[PAN: AACPK5960F]

(अपीलार्थी /Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by . Shri N. Arjunraj, C.A. &
: Shri S. Sridhar, Advocate
प्रत्यर्थी की ओर से/Respondent by : Shri A. Sundararajan, Addl. CIT
सुनवाई की तारीख/ Date of hearing : 27.02.2020
घोषणा की तारीख /Date of Pronouncement : 09.03.2020

आदेश /O R D E R

PER DUVVURUL RL REDDY, JUDICIAL MEMBER:

This appeal filed by the assessee is directed against the order of the Id. Commissioner of Income Tax (Appeals) 8, Chennai dated 20.11.2018 relevant to the assessment year 2014-15. The effective ground raised in the appeal of the assessee relates to confirmation of disallowance of ₹.29,15,998/- made section 14A of the Income Tax Act, 1961 ["Act" in short].

2. Brief facts of the case are that the assessee filed its return of income for the assessment year 2014-15 on 24.09.2014 admitting an income of ₹.1,91,98,220/-. The return filed by the assessee was selected for scrutiny and against the statutory notices, the assessee furnished the details. On verification of the details filed by the assessee, the Assessing Officer completed the assessment under section 143(3) of the Act by assessing total income of the assessee at ₹.2,21,14,218/- after making disallowance under section 14A of the Act r.w. Rule 8D at ₹.29,15,998/-. On appeal, the Id. CIT(A) confirmed the disallowance made under section 14A r.w. Rule 8D.

3. On being aggrieved, the assessee is in appeal before the Tribunal. By referring to the balance sheet filed in the form of paper book, the Id. Counsel for the assessee has submitted that the assessee has sufficient own funds/internal accruals for making investments, the interest expenditure incurred by the assessee should not have been disallowed under section 14A r.w. Rule 8D(2)(ii) since no part of the borrowed funds were used by the assessee for making investments and prayed for deleting the disallowance of expenditure. On the other hand, the Id. DR supported the orders of authorities below.

4. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below including paper book

filed by the assessee. On perusal of the accounts, the Assessing Officer noticed that the assessee has claimed interest expenses of ₹.1,48,41,644/- and shown dividend income of ₹.36,41,636/- and also investment in shares of ₹.4,88,89,852/- in various companies and other ₹.3,10,000/- aggregating to ₹.4,91,99,852/-. However, the assessee has not admitted any expenditure attributable to such investments. Hence, by invoking the provisions of section 14A r.w. Rule 8D, the Assessing Officer determined the expenditure attributable for earning such exempt income by applying Rule 8D(2)(ii) at ₹.26,71,392/- and Rule 8D(2)(iii) at ₹.2,44,606/- totalling to ₹.29,15,998/- and brought to tax. Before the Id. CIT(A), the assessee has contended that the investments in the acquisition of shares were from its own interest free funds. Upon the above submissions, the Id. CIT(A) has observed that the assessee earned dividend income of ₹.36,41,636/- from mutual funds and similar tax exempt investments. The assessee has also had land and other immovable properties worth of ₹.7.45 crores. The assessee has also various other investments and advances which are made for the purposes other than for earning income. Thus, while observing that the entire amount on investments are from own funds is not borne of facts, the Id. CIT(A) held that even if the tax exempt investments were to be from own funds of the assessee, the disallowance under section 14A of the Act is attracted in view of the various judgements of various Courts and accordingly confirmed the disallowance.

4.1 Various courts have held that when the assessee claimed that it had sufficient funds to cover investments in tax free securities which was corroborated by the financial audited report for various assessment years and the entire interest expenditure on borrowing fund was incurred in connection with the operating revenue which had been offered to tax, no disallowance is required to be made under section 14A of the Act [CIT v. Bharti Televenture Ltd. (2011) 331 ITR 502 (Del), CIT v. Reliance Utilities & Power Ltd. (2009) 313 ITR 340 (Bom), PCIT v. Sintex Industries Ltd. (2018) 403 ITR 418 (Guj), etc.]. Thus, we set aside the order of the Id. CIT(A) and remit the matter back to the file of the Assessing Officer to verify as to whether the assessee was having sufficient own funds on the date of investments and if so, no disallowance under Rule 8D(2)(ii) is warranted on the entire interest expenditure on borrowing fund which was incurred in connection with the operating revenue and offered to tax. Further, the Assessing Officer is directed to consider only those investments for computing average value of investment which yielded exempt income during the year under consideration as per Rule 8D(2)(iii) in view of the Delhi Special Bench of the Tribunal in the case of ACIT v. Vireet Investment (P) Ltd. (2017) 165 ITD 27 (Delhi)(SB) and to pass detailed order on both counts. Thus, the ground raised by the assessee is allowed for statistical purposes.

5. In the result, the appeal filed by the assessee is allowed for statistical purposes.

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

Sd/-
(S JAYARAMAN)
ACCOUNTANT MEMBER

Sd/-
(DUVVURUL RL REDDY)
JUDICIAL MEMBER

Chennai, Dated, the 09.03.2020

Vm/-

आदेश की प्रतिलिपि अग्रेषित/Copy to: 1. अपीलार्थी/Appellant, 2. प्रत्यर्थी/ Respondent, 3. आयकर आयुक्त (अपील)/CIT(A), 4. आयकर आयुक्त/CIT, 5. विभागीय प्रतिनिधि/DR & 6. गार्ड फाईल/GF.