

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई।  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
'A' (SMC) BENCH: CHENNAI**

श्री जॉर्ज माथन, न्यायिक सदस्य के समक्ष

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER**

आयकर अपील सं./ITA No.3435/Chny/2019  
निर्धारण वर्ष /Assessment Year: 2011-12

Smt. R. Jegathambal,  
No.443, Main Bazaar,  
Virudhunagar – 626 001.

The Deputy Commissioner of  
Income Tax,  
**Vs.** Central Circle – 1,  
Madurai – 625 002.

**[PAN: ADEPJ 0074A]**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by

: Mr. S. Shanmugavel, C.A.

प्रत्यर्थी की ओर से /Respondent by

: Ms. R. Anitha, JCIT

सुनवाई की तारीख/Date of Hearing

: 18.03.2020

घोषणा की तारीख /Date of Pronouncement

: 18.03.2020

**आदेश / ORDER**

**PER GEORGE MATHAN, JUDICIAL MEMBER:**

This is an appeal filed by the assessee against the order of the learned Commissioner of Income Tax (Appeals)-19, Chennai in appeal No.I.T.A. No.159/18-19 dated 13.08.2019 for the Assessment Year 2011-12.

2. Mr. S. Shanmugavel, Chartered Accountant represented on behalf of the Assessee and Ms. R. Anitha, JCIT represented on behalf of the Revenue.

3. It was submitted by the learned Authorized Representative that the assessee is an individual who is also having income from partnership firms. It was a submission that in the course of assessment, it was noticed that the assessee was having exempt income and consequently the Assessing Officer had invoked the provisions of Section 14A r.w.Rule-8D and had disallowed an amount of Rs.11,90,082/- as expenditure in relation to income which does not form part of the total income. It was a submission that the dividend income earned by the assessee was only Rs.46,950/-. It was a submission that if at all, the disallowance u/s.14A r.w.Rule 8D must be restricted to the exempt income.

4. In reply, the learned Departmental Representative submitted that the assessee is deriving share of income from partnership firms. It was a submission that even the same has

to be considered for the purpose of computing the disallowance u/s.14A r.w.Rule-8D of the Income Tax Act, 1961. For this purpose, the learned Departmental Representative placed before me a copy of the order of the Co-ordinate Bench of this Tribunal, Mumbai Bench in the case of Dharmasingh M. Popat vs. Assistant Commissioner of Income Tax reported in [2010] 127 TTJ 61 (Mumbai), as also the decision of the Co-ordinate Bench of this Tribunal, Pune Bench in the case of Paras Bhomraj Oswal vs. Assistant Commissioner of Income Tax, Kohlapur reported in [2017] 88 taxmann.com 41 (Pune – Trib.).

5. I have considered the rival submissions and perused the materials available on record.

6. Admittedly, the disallowance u/s.14A, r.w.Rule-8D is in respect of the expenditure incurred in respect of such incomes which are not includable in the total income of the assessee. The share of income from the partnership firm as also the dividend income, admittedly, is not includable in the total income of the assessee, as the same is exempt u/s.10 of the

Income Tax Act, 1961. A perusal of the assessment order does not show as to how the Assessing Officer has determined the disallowance u/s.14A r.w.Rule-8D.

This being so, in the interest of justice, the issue of the disallowance u/s.14A r.w.Rule-8D is restored to the file of the Assessing Officer for re-adjudication and for re-computing after granting the assessee adequate opportunity of being heard.

7. In the result, the appeal of the assessee in I.T.A. No.3435/Chny/2019 is partly allowed for statistical purpose.

Order pronounced in the open Court on 18<sup>th</sup> March, 2020 in Chennai.

**Sd/-**  
**(जॉर्ज माथन)**  
**(GEORGE MATHAN)**  
न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai,  
दिनांक/Dated: 18<sup>th</sup> March, 2020

IA, Sr. PS

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