

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

श्री जॉर्ज माथन, न्यायिक सदस्य

BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER

आयकर अपील सं./ I.T.A. No : 1731/Chny/2019

निर्धारण वर्ष /Assessment year : 2014-15

M/s. Zeeland Acres Pvt. Ltd.,
Old No. 19, New No. 72,
Rajah Annamalai Building,
Marshalla Road, III Floor,
Egmore, Chennai – 08.

Vs. Income Tax Officer,
Corporate Ward – 3(3),
Chennai.

[PAN: AAACZ 1667M]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by

: Shri. G. Baskar, Advocate

प्रत्यर्थी की ओर से /Respondent by

: Ms. R. Anitha, JCIT

सुनवाई की तारीख/Date of Hearing

: 23.06.2020

घोषणा की तारीख /Date of Pronouncement

: 23.06.2020

आदेश / ORDER

This is an appeal filed by the assessee against the Commissioner of Income Tax (Appeals)-11, Chennai in ITA No. 234/16-17 dated 03.04.2019 for assessment year 2014-15.

2. Shri. G. Baskar, Advocate represented on behalf of the assessee and Ms. R. Anitha, JCIT represented on behalf of the Revenue.

3. It was submitted by the Ld. AR that in respect of ground nos. 1.1 to 1.5, the issue was in respect of determination of the fair market value of the shares transferred. It was a submission that the Ld. CIT(A) in para 9 of page 11 of his order has directed the AO to re-work the fair market value as on 10.03.2014. The Ld. AR placed before me a copy of the order giving effect to the Ld. CIT(A) dated 16.05.2019, wherein the addition u/s. 56(2)(vii) r.w.r. 11UA has been re-worked in the Annexure. He drew my attention to the fair market value determined at Rs. 143/-. It was a submission that the assessee had claimed Rs. 140/- only. It was a further submission that there was an error in the computation against which the assessee has filed a rectification application. It was a submission that consequent to the order giving effect to the order of the Ld. CIT(A) by the AO, the issue has become academic in nature.

4. In reply, the Ld. DR did not raise any objection. It was agreed that the issue has become academic in nature.

5. I have considered the rival submissions through video conference. As the issues raised in ground 1.1 to 1.5 has admittedly become academic in nature, the said grounds stand dismissed as infructuous.

6. In respect of the grounds 2.1 and 2.2, it was submitted by the Ld. AR that the issue was against the action of the Ld. CIT(A) in confirming the disallowance made by invoking section 14A r.w.r. 8D. The Ld. AR drew my attention to the para 4 of page 2 of the assessment order, wherein the AO has recorded that the assessee is not in receipt of any exempt income by way of the investment. It was a submission by the Ld. AR that the Ld. CIT(A) had relied upon the circular issued by the CBDT in Circular No. 5 of 2014 dated 11.02.2014. It was a submission that the issue was squarely covered by the decision of the Hon'ble Supreme Court in the case of Chettinad Logistics reported in 95 Taxmann.com 250 (SC), wherein it has been held that if the assessee has not earned any exempt income, then no disallowance u/s. 14A is called for.

7. In reply, the Ld. DR vehemently supported the order of the Ld. CIT(A). She relied on the circular issued by the CBDT, relied upon by the Ld. CIT(A). It was a submission that the disallowance u/s. 14A r.w.r. 8D was mandatory whether the assessee earned exempt income or not.

8. I have considered rival submissions through video conference. The assessee in the present case has not earned any exempt income, as has been recorded by the AO in the assessment order. This being so, I am of the view that the decision of the Supreme Court in the case of Chettinad Logistics, (supra) squarely applies in the present case and as the assessee has not earned any exempt income during the relevant assessment year, no disallowance u/s. 14A is called for. In the circumstances, the addition made by the AO and confirmed by the Ld. CIT(A) by invoking provisions of section 14A stands deleted. Grounds 2.1 and 2.2 of the assessee's appeal stands allowed.

9. In the result, the appeal filed by the assessee is partly allowed.

Order pronounced in the open court after conclusion of hearing on 23rd June, 2020 at Chennai.

Sd/-

(जॉर्ज माथन)

(GEORGE MATHAN)

न्यायिक सदस्य/JUDICIAL MEMBER

चेन्नई/Chennai

दिनांक/Dated: 23rd June, 2020

JPV

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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|--------------------------|------------------------------|-------------------------|
| 1. अपीलार्थी/Appellant | 3. आयकर आयुक्त (अपील)/CIT(A) | 5. विभागीय प्रतिनिधि/DR |
| 2. प्रत्यर्थी/Respondent | 4. आयकर आयुक्त/CIT | 6. गार्ड फाईल/GF |