

IN THE INCOME TAX APPELLATE TRIBUNAL "D"

(Virtual Court Hearing), BENCH KOLKATA

BEFORE SHRI J. SUDHAKAR REDDY, AM & SHRI S. S. GODARA, JM

आयकर अपीलसं./I.T.A No.1196&370/Kol/2019

(निर्धारण वर्ष / Assessment Years: 2012-13&2013-14)

| | | |
|--|------------|-----------------------------------|
| Kesoram Industries Limited 5/1, Clive Row, 4 th Floor, Room No.125, Kol-1. | Vs. | DCIT, Circle-5(1), Kolkata |
| स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AABCK2417P | | |
| (Appellant) | .. | (Respondent) |

Appellant by : Shri Akkal Dudhewala, CA

Respondent by : Smt. Ranu Biswas, Addl. CIT

सुनवाईकीतारीख/ Date of Hearing : 16/06/2020

घोषणाकीतारीख/Date of Pronouncement : 19/06/2020

आदेश / O R D E R

Per Shri S. S. Godara:

These assessee's two appeals for assessment year 2012-13 & 2013-14 arise against the Commissioner of Income Tax (A) – 7, Kolkata & Commissioner of Income Tax (A) - 22, Kolkata' separate orders dated 29.03.2019 & 31.12.2018 passed in Case No.1007/CIT(A)-7/Circle-5(1)/Kol/15-16 & No.53/CIT(A)-22/13-14/18-19/Kol involving proceedings u/s 143(3) and 144C of the Income Tax Act, 1961 (in short 'the Act'), respectively.

Heard both the parties. Case files perused.

2. It transpires at the outset during the course of hearing that the assessee's sole identical grievance in both these appeals challenges correctness of the lower authorities' action invoking section 14A r.w.r 8D(2)(iii) administrative expenditure disallowance of Rs.33,04,500/- and Rs.33,18,000/- relating to its exempt income of Rs.6,09,11,055/- and Rs.5,61,76,040/- assessment year wise; respectively. Suffice to say, the Assessing Officer went by 0.5% of the average value of investments in the corresponding assessments framed on 20.03.2015 &

23.12.2016 whereas the CIT(A) holds that only the investments yielding exempt income in issue have to be considered for the purpose of calculating the impugned administrative expenditure.

3. Learned counsel's only case during the course of hearing is that both the lower authorities have erred in law and on facts in making the impugned disallowance since the dividend income had been directly credited to the assessee's bank account by way of ECS without incurring any bank charges or collection as expenses. And also that there was no change in investment portfolio nor the assessee kept track scrip prices movement. We find no merit in either of these arguments. It transpires during the course of hearing that the instant sole issue is actually against the assessee and in Revenue's favour as per tribunal's orders in assessment year 2008-09 to 2009-10 involving ITA No.1037/Kol/2012 and ITA No.773/Kol/2013 following REI Agro Ltd. vs. DCIT (2013) 144 ITD 141 (Kol-Trib) as upheld by hon'ble jurisdictional high court in GA No.3581 of 2018 holding that only exempt income yielding investments have to be taken into consideration for purpose of computing administrative expenditure disallowance. No rebuttal to this clinching legal position has come from the assessee's side. We thus confirm the CIT(A)'s action issuing necessary directions to the Assessing Officer to this effect. The assessee fails in its sole substantive ground in both these assessment years.

4. This two assessee's appeals are dismissed.

Order is pronounced in the open court on 19.06.2020.

Sd/-
(J. Sudhakar Reddy)
ACCOUNTANT MEMBER

Sd/-
(S. S. Godara)
JUDICIAL MEMBER

कोलकाता /Kolkata;
दिनांक/ Date:19/06/2020
RS

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. The Appellant- Kesoram Industries Limited
2. The Respondent- DCIT, Circle-5(1), Kolkata
3. आयकरआयुक्त(अपील) / The CIT(A), Kolkata [sent through email]
4. आयकरआयुक्त/ CIT
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, **कोलकाता**/ DR, ITAT, Kolkata [sent through email]
6. गार्डफाईल / Guard file.
सत्यापितप्रति

True Copy

By Order

Assistant Registrar,
I.T.A.T, Kolkata Benches,
Kolkata.