

IN THE INCOME TAX APPELLATE TRIBUNAL "D"

(Virtual Court Hearing), BENCH KOLKATA

BEFORE SHRI P.M. JAGTAP, V.P & SHRI S. S. GODARA, JM

आयकर अपीलसं./I.T.A No.158/Kol/2020

(निर्धारण वर्ष / Assessment Year: 2015-16)

Durga Project Incorporation, Kolkata	Vs.	ACIT, Circle-34, Kolkata
16/1A, Abdul Hamid Street, 5 th Floor, Kolkata-1.		
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AAFFD0572M		
(Appellant)	..	(Respondent)

Appellant by : Shri Manish Tiwari, CA

Respondent by : Shri Supriyo Pal, JCIT

सुनवाईकीतारीख/ Date of Hearing : 08/06/2020

घोषणाकीतारीख/Date of Pronouncement : 19/06/2020

आदेश / O R D E R

Per Shri S. S. Godara:

This assessee's appeal for assessment year 2015-16 arises against the Commissioner of Income Tax (A) - 10, Kolkata dated 13.12.2017 passed in Case No.CIT(A), Kolkata-10/10441/2017-18 involving proceedings u/s 143(3) of the Income Tax Act, 1961; in short 'the Act'.

Heard both the parties. Case file perused.

2. We notice at the outset that both the learned lower authorities have invoked section 14A disallowance involving proportionate interest and administrative expenses head(s) of Rs.6,27,824/- & Rs.75,000/-; respectively under 2nd and 3rd limb of Rule 8D(ii) of the Income Tax Rules. The assessee's only case is that the impugned disallowance does not come into play in absence of exempt income derived in the relevant previous year. Hon'ble jurisdictional high court's decision in CIT vs. Ashika Global Securities Ltd. ITA 100 of 2014 GA No.2122 of 2014 decided on 11.06.2018 holds that section 14A r.w.r. 8D does not apply in absence

of any such exempt income. Learned departmental representative on the other hand submitted that the instant sole issue requires factual verification at the Assessing Officer's end.

3. After giving our thoughtful consideration to the foregoing sole issue raised in the instant lis, we deem it appropriate to restore the same back to the Assessing Officer for fresh factual verification since there is no clarity in the assessment findings as to whether the assessee had derived any exempt income or not. The assessee's sole substantive grievance is restored to the file of Assessing Officer therefore.

4. This assessee's appeal is allowed for statistical purposes in above terms.

Order is pronounced in the open court on 19.06.2020.

Sd/-
(P. M. Jagtap)
VICE-PRESIDENT

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

कोलकाता /Kolkata;

दिनांक/ Date:19/06/2020

RS

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. The Appellant- Durga Project Incorporation, Kolkata
2. The Respondent- ACIT, Circle-34, 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.