

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL, 'B' BENCH, CHENNAI
श्री वी दुर्गा राव, न्यायिक सदस्य एवं श्री एस जयरामन, लेखा सदस्य के समक्ष
**BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER AND
SHRI S. JAYARAMAN, ACCOUNTANT MEMBER**

आयकर अपील सं./I.T.A.No.3296/CHNY/2019
(निर्धारण वर्ष / Assessment Year: 2009-10)

The ACIT,
Large Taxpayer Unit-2,
Chennai – 34.

Vs **M/s. Tamilnadu Petroproducts
Limited,**
Post Box No.9, Manali Express
Highway, Manali,
Chennai – 600 068.
PAN: AA ACT1295M

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by

: Shri M. Srinivasa Rao, CIT

प्रत्यर्थी की ओर से/Respondent by

: Shri Saroj Kumar Parida, Advocate

सुनवाई की तारीख/Date of hearing

: 14.10.2020

घोषणा की तारीख /Date of Pronouncement

: 14.10.2020

आदेश / ORDER

PER S. JAYARAMAN, ACCOUNTANT MEMBER:

The Revenue filed this appeal against the order of the Commissioner of Income Tax (Appeals)-9, Chennai in ITA No.56(2009-10) dated 20.09.2019 for the assessment year 2009-10.

2. M/s. Tamilnadu Petroproducts Limited, the assessee, is engaged in manufacturing and trading of petrochemical products. The AO reopened the assessment for the assessment year 2009-10 and completed the reassessment U/s.143(3) r.w.s 147 of the Act, making disallowance U/s.14A r.w.Rule 8D and restricting the brought forward loss. Aggrieved, the assessee filed an appeal before the CIT(A). The Ld.CIT(A), relying on the jurisdictional High Court decisions in the case of Reddington India Ltd., vs. The Addl. CIT, 77 taxmann.com 257 and CIT vs. Chettinad Logistics Pvt. Ltd., (2017) 80 taxmann.com 221, which has been reiterated by the Apex Court in CIT, Central-1 vs. Chettinad Logistics Pvt. Ltd., (2018) 95 taxmann.com 250 (SC) held that disallowance U/s.14A r.w.Rule 8D can be made only when there is exempt income. Only those investments which yielded exempt income during the relevant assessment year under consideration ought to be included for the purpose of average value of investment for computing disallowance as per third limb of Rule 8D(2) and accordingly directed the AO to re-compute the applicable disallowance U/s.14A r.w.r 8D. Aggrieved against that order, the Revenue filed this appeal with the following grounds of appeal:-

“1. The order of the learned CIT(A) is contrary to law and facts and circumstances of the case.

2.1 The learned CIT(A) has erred and held that the disallowance u/s.14A r.w.Rule 8D can be made only when there is exempt income.

2.2 The learned CIT(A) has erred and held that only those investments which yielded exempt income during the relevant assessment year under consideration, ought to be included for the purpose of average value of investment for computing disallowance as per third limb of Rule 8D(2).

2.3 The learned CIT(A) has erred and directed the AO to recomputed the applicable disallowance u/s14A r.w.Rule 8D on the above lines.

2.3 The learned CIT(A) failed to note as the Hon’ble Supreme Court held in the case of ‘Maxopp investments’ interpreted in a strict manner to held that dominant or main object would not be a relevant consideration for disallowance u/s.14A of the Act.

2.4 The learned CIT(A) failed to note that the CBDT has issued circular No.5/2014 dated 11.02.2014 provides for disallowance of the expenditure even whether tax payer in a particular year has not earned any exempt income.

3. For these and other grounds that may be adduced at the time of hearing, it is prayed that the order of the learned CIT(A) may be set aside and that of the Assessing Officer be restored.

3. The case was heard through video conferencing. The Ld.DR presented the case on the lines of grounds of appeal. Per contra, the Ld.AR submitted that the assessee has not received any exempt income during the relevant assessment year and hence no

disallowance could be made U/s.14A r.w.r8D and in this regard, relied on the decisions, *supra*.

4. We heard the rival submissions and gone through relevant material. Since, the assessee claims that it has not earned any exempt income during the relevant period under consideration, the fact of which is not disputed by the Revenue, we do not find any reason to interfere with the order of the Ld.CIT(A). Therefore, we dismiss the Revenue's appeal.

5. In the result, the appeal filed by the Revenue is dismissed.

Order pronounced in the open court on the 14th October, 2020 at Chennai.

Sd/-

(वी दुर्गा राव)
(V. Durga Rao)

न्यायिक सदस्य/Judicial Member

चेन्नई/Chennai,

दिनांक/Dated 14th October, 2020

RSR

Sd/-

(एस जयरामन)

(S. Jayaraman)

लेखा सदस्य /Accountant Member

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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