

IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD “C” BENCH

**Before: Shri Rajpal Yadav, Vice President
And Shri Amarjit Singh, Accountant Member**

**ITA No. 1857/Ahd/2018
Assessment Year 2004-05**

Nirma Chemical Works Pvt. Ltd. Nirma House, Ashram Road, Ahmedabad PAN: AAACN5353L (Appellant)	Vs	The Dy. Commissioner of Income-tax, Circle-3(1)(1), Ahmedabad (Respondent)
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**Revenue by: Shri L.P. Jain, Sr. D.R.
Assessee by: Shri Hemanshu C. Shah, A.R.**

Date of hearing : 09-09-2020
Date of pronouncement : 07-10-2020

आदेश/ORDER

PER : AMARJIT SINGH, ACCOUNTANT MEMBER:-

This assessee's appeal for A.Y. 2004-05, arises from order of the CIT(A)-9, Ahmedabad dated 03-07-2018, in proceedings under section 143(3) r.w.s. 254 of the Income Tax Act, 1961; in short "the Act".

2. The solitary ground of appeal of the assessee against the order of Id. CIT(A) in confirming the disallowance of Rs 14,982,931/- u/s. 14A r.w.r. 8D of I.T. Rules.

3. The fact in brief is that return of income declaring income of Rs. 4,53,83,570/- was filed on 1st Nov, 2004. The case was subject to scrutiny assessment. The assessment u/s. 143(3) of the Act was completed on 30th Nov,

2006 and disallowance of Rs. 2,86,937/- u/s. 14A of the Act out of interest expenses and Rs. 37,37,962/- out of administrative expenditure was made u/s. 14A of the Act. The Id. CIT(A) has confirmed this addition. However, the Co-ordinate Bench of the ITAT vide ITA No. 2281/Ahd/2008 has set aside the issue to the file of Assessing Officer for deciding the issue afresh after verification of details and revised working of interest expenses furnished by the assessee. The Assessing Officer has passed order u/s. 143(3) r.w.s. 254 of the Act on 15th December, 2007 and computed disallowance u/s. 14A r.w. rule 8D of the I.T. Rules to the amount of Rs. 14,82,931/-.

4. Aggrieved assessee has filed appeal before the Id. CIT(A). The Id. CITA has dismissed the appeal of the assessee.

5. During the course of appellate proceedings before us, the Id. counsel has filed paper book comprising copies of balance sheet, profit and loss account and order of the ITAT pertaining to the assessment year 2012-13. The Id. counsel has contended that vide ITA No. 750/Ahd/2016, the Co-ordinate Bench of the ITAT in the case of the assessee itself on similar issue and identical facts has held that assessee was having substantial interest free fund, so, there was no justification for making disallowance u/s. 14A out of interest expenditure and justified the disallowance out of administrative expenditure to the expenditure of Rs. 6 lacs after considering the nature of expenditure as assessee has not specifically claimed any expenditure for taking care of investment i.e. salary of particular employee etc. On the other hand, the Id. Departmental Representative has supported the order of lower authorities.

6. We have heard both the sides and perused the material on record. The Assessing Officer has computed disallowance of Rs. 14,82,931/- for

administrative expenses u/s. 14A r.w. Rule 8D of the I.T. Rules. During the course of assessment and appellate proceedings, the assessee has submitted that it had share capital and reserves of Rs. 532.12 crores as on 31st March, 2014 as against investment of Rs. 14.60 crores. Therefore, there was no justification for making disallowance out of interest expenditure incurred on earning exempt income. However, in respect of disallowance of administrative expenditure, we have gone through the order of the Co-ordinate Bench of the ITAT in the case of the assessee itself for the assessment year 2012-13 wherein the disallowance in respect of administrative expenditure was restricted to Rs. 6 lacs after taking into consideration the total exempt income earned by the assessee of Rs. 63,35,308/-. Respectfully following the decision of the Co-ordinate Bench on the similar facts and identical issue, we restrict the disallowance out of administrative expenses to Rs. 7 lacs as assessee has earned dividend income of Rs. 77,60,108/- as against dividend income of Rs. 63,35,308/- earned in A.Y. 2012-13. Accordingly, the appeal of the assessee is partly allowed.

7. In the result, the appeal of the assessee is partly allowed.

Order pronounced in the open court on 07-10-2020

Sd/-
(RAJPAL YADAV)
VICE PRESIDENT
Ahmedabad : Dated 07/10/2020

Sd/-
(AMARJIT SINGH)
ACCOUNTANT MEMBER

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण,
अहमदाबाद