

आयकर अपीलीय अधिकरण, "ए" न्यायपीठ, चेन्नई  
IN THE INCOME-TAX APPELLATE TRIBUNAL 'A' BENCH, CHENNAI  
श्री धुव्वुरु आर.एल रेड्डी, न्यायिक सदस्य एवं श्री एस जयरामन, लेखा सदस्य के समक्ष  
Before Shri Duvvuru RL Reddy, Judicial Member &  
Shri S. Jayaraman, Accountant Member

आयकर अपील सं./I.T.A. No. 814/Chny/2019  
निर्धारण वर्ष/Assessment Year: 2014-15

M/s. GRT Hotels & Resorts Pvt. Ltd.,  
No. 136, Usman Road, T. Nagar,  
Chennai 600 017.

Vs. The Deputy Commissioner of  
Income Tax, Central Circle 3(3)  
Chennai 600 034.

**[PAN:AAACG3608B]**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri B. Ramachandran, CA  
प्रत्यर्थी की ओर से/Respondent by : Shri AR.V. Sreenivasan, JCIT  
सुनवाई की तारीख/ Date of hearing : 21.09.2020  
घोषणा की तारीख /Date of Pronouncement : 07.10.2020

**आदेश / O R D E R**

**PER DUVVURU RL REDDY, JUDICIAL MEMBER:**

This appeal filed by the assessee is directed against the order of the Id. Commissioner of Income Tax (Appeals) 19, Chennai, dated 10.01.2019 relevant to the assessment year 2014-15. In the grounds of appeal, the assessee has challenged confirmation of the disallowance made under section 14A of the Income Tax Act, 1961 ["Act" in short] as well as confirmation of disallowance of expenses on ad-hoc basis.

2. Brief facts of the case are that the assessee filed its return of income for the assessment year 2014-15 on 25.11.2014 declaring total income of

₹.4,38,56,610/-. The return filed by the assessee was taken up for scrutiny. After considering and verification of the details filed against statutory notices, the assessment under section 143(3) of the Act was completed by assessing taxable income of the assessee at ₹.5,13,34,753/- after making additions towards disallowance under section 14A of the Act and disallowance on ad-hoc basis. On appeal, the Id. CIT(A) confirmed both the disallowances.

3. On being aggrieved, the assessee is in appeal before the Tribunal. While reiterating the submissions as made before the Id. CIT(A), the Id. Counsel for the assessee has submitted that the interest expenses relating to the borrowed funds were utilized for the purpose of business even though the borrowed funds were utilized for short-term investments, which were capitalized and therefore, the Id. CIT(A) was incorrect to confirm the disallowance and prayed for deleting the addition. On the other hand, the Id. DR strongly supported the orders of authorities below.

4. We have heard both the sides through video conferencing, perused the materials available on record and gone through the orders of authorities below. In this case, against the investments in various holdings, the assessee has derived dividend income of ₹.74,61,093/- and has also debited interest expenses of ₹.9,35,11,868/- in the profit and loss account. Further, during the year under consideration, the assessee has also made fresh

investments in share of World Park Hotels Pvt. Ltd. of ₹.9,52,37,518/- and investment in UTI funds of ₹.5,44,50,000/-. Since the assessee has not admitted any expenditure towards investments and in view of the above facts, by applying the provisions of Rule 8D, the Assessing Officer determined the disallowance under section 14A of the Act at ₹.69,35,702/-. Since the assessee has not disallowed any amount of expenses towards huge investment and earned dividend income, the Id. CIT(A) upheld the disallowance made under section 14A of the Act.

4.1 On perusal of the orders of authorities below, we find that the assessee has made fresh investments in share of World Park Hotels Pvt. Ltd. of ₹.9,52,37,518/- and investment in UTI funds of ₹.5,44,50,000/-. Moreover, the assessee derived dividend income of ₹.74,61,093/-. In Form 35, the assessee has submitted that the assessee has reserves to the extent of ₹.115 crores with the company and that would be sufficient to make the investments in question. However, the AO and Id. CIT(A) have not brought on record as to whether the assessee has sufficient funds for making investment. Thus, we set aside the orders of the authorities below and remit the matter back to the file of the Assessing Officer with the direction that he shall examine the balance sheet of the assessee and ascertain as to whether as on the date of investment, the assessee has sufficient own funds or not. If the assessee is having own funds as on the date of investment,

then the assessee is entitled to claim exemption and there is no need of disallowance under section 14A of the Act r.w. Rule 8D(2)(ii). So far as disallowance under Rule 8D(2)(iii) is concerned, the Assessing Officer is directed to consider only those investments for computing average value of investment which yielded exempt income during the year under consideration as per Rule 8D(2)(iii) in view of the Delhi Special Bench of the Tribunal in the case of ACIT v. Vireet Investment (P) Ltd. (2017) 165 ITD 27 (Delhi)(SB) and to pass detailed order on both counts. Accordingly, the ground raised by the assessee is allowed for statistical purposes.

5. With regard to the disallowance on account of ad-hoc basis, the Assessing Officer observed that the assessee has debited various expenses to profit and loss account, which are supported by self-made vouchers, wherein, element of personal expenses embedded cannot be ruled out. Accordingly, against the claim of expenses at ₹.54,24,412/-, the Assessing Officer disallowed ₹.5,42,441/- being 10% on ad-hoc basis and brought to tax. On appeal, the Id. CIT(A) has observed that the disallowance made on account of expenses being self-made vouchers having a likely element of non-business use, but the Assessing Officer has given no basis or evidence and addition has been done on estimated basis. However, since the assessee could not furnish any evidence or it could explain the increase in expenditure in view of drop in sale or revenue.

6. On perusal of the assessment order and appellate order, we find that the authorities below have not disputed the claim of expenditure as bogus or otherwise. The 10% ad-hoc addition is actually not on the entire expenditure under various heads, but only 10% of increase in expenditure over the immediately preceding year. Since the Assessing Officer made the ad-hoc addition purely on estimated basis and the nature of expenditure incurred by the assessee was not at all disputed by the authorities below, we are of the considered opinion that the ad-hoc addition is not liable to made. Accordingly, the ad-hoc addition made by the Assessing Officer and upheld by the Id. CIT(A) stands deleted.

7. In the result, the appeal filed by the assessee is partly allowed for statistical purposes.

Order pronounced on the 7<sup>th</sup> October, 2020 in Chennai.

Sd/-  
(S. JAYARAMAN)  
ACCOUNTANT MEMBER

Sd/-  
(DUVVURUL RL REDDY)  
JUDICIAL MEMBER

Chennai, Dated, 07.10.2020

Vm/-

आदेश की प्रतिलिपि अग्रेषित/Copy to: 1. अपीलार्थी/Appellant, 2. प्रत्यर्थी/Respondent, 3. आयकर आयुक्त (अपील)/CIT(A), 4. आयकर आयुक्त/CIT, 5. विभागीय प्रतिनिधि/DR & 6. गार्ड फाईल/GF.