

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
'C' BENCH, CHENNAI

श्री महावीर सिंह, उपाध्यक्ष एवं श्री जी. मंजुनाथ, लेखा सदस्य के समक्ष  
**BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND**  
**SHRI G. MANJUNATHA, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.: 2049 / CHNY / 2018  
निर्धारण वर्ष / Assessment Year: 2009-10

**M/s. Manali Petrochemicals**  
**Ltd.,**  
Ponneri High Road,  
Manali, Chennai – 600 068.

The DCIT,  
v. LTU (Appeals),  
Chennai- 34.

**PAN : AAACM3404D**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by  
प्रत्यर्थी की ओर से/Respondent by

: Shri R. Vijayaraghavan, Advocate  
: Ms. R. Anitha, JCIT

सुनवाई की तारीख/Date of Hearing

: 09.11.2020

घोषणा की तारीख/Date of Pronouncement

: 09.11.2020

**आदेश /O R D E R**

**PER MAHAVIR SINGH, VP:**

This appeal by the assessee is arising out of the order of the Commissioner of Income Tax (Appeals)-5, Chennai, in ITA No.123/CIT(A)-5/2011-12 dated 26.04.2018. The Assessment was framed by DCIT, Large Taxpayer Unit, Chennai for the A.Y. 2009-10 U/s 143(3) of the Income Tax Act, 1961 (hereinafter 'the Act') vide order dated 15.12.2011.

2. The sole point under dispute is as regards to the order of the CIT(A) confirming the disallowance of expenses relating to exempt income made by the Assessing Officer by invoking the provisions of Section 14A of the Act, read with Rule 8D(2)(ii) of the Income Tax Rules, 1962 (hereinafter 'the Rules'). For this, the assessee has raised the effective ground Nos.2 to 5, which need not be reproduced as the issue has been crystallized.

3. The Id.counsel for the assessee stated that he has only grievance regarding the disallowance of expenses on account of interest made by the AO by invoking the provisions of Section 14A r.w.r. 8D(2)(ii) of the Rules, whereby he has applied the formula and made disallowance of Rs.6,93,617/-. The Id.counsel for the assessee read out the relevant para of disallowance made by the AO in his order. The CIT(A) also confirms the action of the AO without considering the submissions of the assessee. Aggrieved, now the assessee is in appeal before the Tribunal.

4. We have heard rival contentions and gone through the facts and circumstances of the case. The Id.counsel for the assessee drew our attention to the copy of balance sheet of the assessee company as on 31.03.2009, whereby the Share Capital

is to the tune of Rs.8603.47 lakhs and Reserves and Surplus to the tune of Rs.2782.80 lakhs as on 31.03.2009. As against the interest free funds available with the assessee as own funds, the investments made in the instruments giving rise to exempt income is only to the extent of Rs.1710.77 lakhs, which is much lower than the available funds. The Id.counsel for the assessee specifically pointed out that neither the AO nor the CIT(A) has gone into any investigation of facts that the interest bearing funds has gone into these investments. On the other hand, the Id. Sr. Departmental Representative only stated that these are old investments and as per formula it is mandatory if assessee has earned exempt income, some disallowance is required. We noted that the assessee's own funds i.e., interest free fund available is more than the investments made in instruments which give rise to exempt income. Once this is the position, we noted that this issue is squarely covered in favor of the assessee by the decision of the Hon'ble Bombay High Court in the case of CIT vs. HDFC Bank Ltd., (2014) 366 ITR 0505 (Bom), wherein on identical facts, the Hon'ble Bombay High Court has held that once the assessee's capital, profit reserves, surplus and current account deposits were higher than the deposit in tax free securities, it should be presumed that the investments made by

the assessee would be out of the interest free funds available with the assessee. Hence, addition confirmed by the lower authorities is not proper as per law. Respectfully following the order of the Hon'ble Bombay High Court in the case of HDFC Bank Ltd., *supra*, we in present case are of the view that no disallowance is warranted. Hence, we delete the disallowance of interest made by the AO under Rule 8D(2)(ii) of the Rules. This issue of the assessee's appeal is allowed.

5. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 9<sup>th</sup> November, 2020 at Chennai.

Sd/-

(जी. मंजुनाथ)

(G. MANJUNATHA)

लेखा सदस्य /ACCOUNTANT MEMBER

Sd/-

(महावीर सिंह)

(MAHAVIR SINGH)

उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,

दिनांक/Dated, the 9<sup>th</sup> November, 2020

**RSR**

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.            |