

**आयकरअपीलीयअधिकरण,सुरतन्यायपीठ,सुरत**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**SURAT BENCH, SURAT**

**BEFORE SHRI PAWAN SINGH, Hon'ble JUDICIAL MEMBER**  
**AND SHRI ARJUN LAL SAINI, Hon'ble ACCOUNTANT MEMBER**

(Virtual Court Virtual Hearing)

**आ.अ.सं./I.T.A No.107/AHD/2017**

**निर्धारण वर्ष/Assessment Year: 2012-13**

The Income Tax Officer, Ward-1(1)(4), Surat.	V s.	M/s.Mid Way Logistics Pvt. Ltd., 24, 2 <sup>nd</sup> Floor, Agrasen Point Complex, City Light, Nr.Agrasen Bhavan, Surat - 395 007. <b>[PAN: AAFCM 9233 K]</b>
<b>अपीलार्थी / Appellant</b>		<b>प्रत्यर्थी/Respondent</b>

निर्धारितीकीओरसे /Assessee by	Shri Hardik Vora – AR
राजस्वकीओरसे /Revenue by	Ms. Anupama Singla – Sr.DR

सुनवाईकीतारीख/ Date of hearing:	12.10.2020
उद्घोषणाकीतारीख/Pronouncement on:	12.10.2020

**आदेश / O R D E R**

**PER PAWAN SINGH, JM:**

1. This appeal by the revenue is directed against the order of Commissioner (Appeals)-1, Surat, dated 19<sup>th</sup> October 2016 for the Assessment Year (AY) 2012- 13. The revenue has raised following grounds of appeal:

- (i) *On the facts and circumstances of the case and in law, ld Commissioner (Appeals) was not justified in deleting the disallowance of ₹ 1,07,30,658/- made on account of expenditure incurred to earn exempt income under section 14A of the I.T. Act when the investment made by assessee are capable of earning exempt income*
- (ii) *On the facts and in the circumstances of the case, ld. Commissioner (Appeals) has sought to have upheld the order of assessing officer.*

2. Brief facts of the case are that during the assessment proceedings the assessing officer has noted that assessee has shown investment of ₹ 16.34 Crore with its sister concern during the year under consideration. The assessee in its profit and loss account also claimed interest expenditure of Rs. 2.22 Crore. Before the assessing officer the assessee claimed that no exempt income was earned during the relevant financial year under consideration and that the provision of section 14A is not applicable. The contention of assessee was not accepted by the assessing officer. The assessing officer made disallowance by invoking the provisions of Rule 8D of the Income Tax Rules and made disallowance of ₹ 1.07 Crore under section 14A read with the Rule 8D. Aggrieved by the additions /disallowance under section 14A read with Rule 8D, the assessee filed appeal before Commissioner (Appeals). Before learned Commissioner (Appeals) the assessee besides the other contentions again contended that during the period under consideration no exempt income was earned by the assessee, thus, no disallowance under section 14A read with Rule 8D was warranted. The learned Commissioner (Appeals) after considering the fact that during the period under consideration the assessee has not earned any exempt income, no disallowance under section 14A read with Rule 8D can be made. Thus, aggrieved by the order of learned

Commissioner(Appeals) assessee officer /revenue has filed the present appeal before us.

3. We have heard the submission of leaned department representative (ld DR) for the venue and the learned authorized representative (ld AR) for assessee and perused the material available on record. At the outset of hearing the ld Senior departmental representative fairly submits that the appeal of revenue is not maintainable in view of the latest circular of Central Board of Direct taxes (CBDT) No.17/2019, dated 08.08.2019 wherein the revenue is precluded from filing appeal before the Tribunal, if tax effect involving the appeal is less than the 50 lakhs. The ld DR for the revenue further submits that the tax effect involving the present appeal is admittedly less than Rs. 50 lakhs therefore, the appeal may be treated as not pressed due to low tax effect.
4. On the other hand the learned authorized representative (ld. AR) for assessee submits that he has no objection if the appeal of revenue is dismissed due to low tax effect.
5. We have considered the rival contention of both the parties and have gone through the orders of lower authorities carefully. We have noted that the assessing officer while passing the assessment order made disallowance under section 14A read with Rule 8D of ₹ 1.07 Crore. The ld. Commissioner (Appeals) deleted the entire

disallowance by taking view that during the period under consideration no exempt income was earned by the assessee, therefore, the disallowance of the section 14A read with Rule 8D was not warranted. We have noted that total disallowance deleted by Id. Commissioner (Appeals) was of ₹ 1.07 Crore, admittedly the tax effect on such disallowance would be less than Rs.50 lakhs. Considering the fact that tax effect involved in the present appeal is less than the monetary limit fixed by CBDT in its Circular No.17/2019 dated 08.08.2019, therefore, the appeal of revenue is not admitted and dismissed due to low tax effect. However, the revenue is given liberty to get the appeal revived, if at the letter stage it is discovered that the case is covered by any exception clause of the said circular.

6. In the result appeal of the revenue is dismissed

Order pronounced at the time of hearing of the appeal on 12 October 2020

**Sd/-**  
**(ARJUN LAL SAINI)**

(लेखा सदस्यतथा/ACCOUNTANT MEMBER)

**Sd/-**  
**(PAWAN SINGH)**

(न्यायिक सदस्यकेसमक्ष /JUDICIAL MEMBER)

सुरत/ **Surat**, दिनांक **Dated:** 12<sup>th</sup> Oct, 2020/S.Gangadhara Rao, Sr.PS

Copy of order sent to- Assessee/AO/Pr. CIT/ CIT (A)/ ITAT (DR)/Guard file of ITAT.

**By order**

/ / **TRUE COPY** / /

**Assistant Registrar, Surat**