

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'B' BENCH, CHENNAI
श्री धुव्वुरु आर.एल रेड्डी, न्यायिक सदस्य एवं श्री जी. मंजुनाथा, लेखा सदस्य के समक्ष
Before Shri Duvvuru RL Reddy, Judicial Member &
Shri G. Manjunatha, Accountant Member

आयकर अपील सं./I.T.A. No. 1847/Chny/2019
निर्धारण वर्ष/Assessment Year: 2014-15

M/s. Sundaravel Marketing Company
Pvt. Ltd., No. 69, A.S.K. Thangiah Nadar
Road, Sivakasi,
Tamil Nadu 626 123.
[PAN:AACCS8823L]

(अपीलार्थी/Appellant)

Vs. The Assistant Commissioner of
Income Tax Corporate Circle No. 2,
No. 2, V.P. Rathinasamy Road, Madurai
625 002.

(प्रत्यर्थी/Respondent)

आयकर अपील सं./I.T.A. No. 1848/Chny/2019
निर्धारण वर्ष/Assessment Year: 2014-15

M/s. Sundaravel Match Industries
Pvt. Ltd., No. 69, A.S.K. Thangiah Nadar
Road, Sivakasi,
Tamil Nadu 626 123.
[PAN:AADCS9041H]

(अपीलार्थी/Appellant)

Vs. The Assistant Commissioner of
Income Tax Corporate Circle No. 2,
No. 2, V.P. Rathinasamy Road, Madurai
625 002.

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : None
प्रत्यर्थी की ओर से/Respondent by : Shri Suresh Periasamy, JCIT
सुनवाई की तारीख/ Date of hearing : 15.12.2020
घोषणा की तारीख /Date of Pronouncement : 22.12.2020

आदेश /O R D E R

PER DUVVURU RL REDDY, JUDICIAL MEMBER:

Both appeals filed by different assesseees of same group are directed against different orders of the Id. Commissioner of Income Tax (Appeals) 1, Madurai, both dated 05.04.2019 relevant to the assessment year 2014-15.

The only effective ground raised in both the appeals of the assessee is with regard to the confirmation of disallowance made under section 14A of the Income Tax Act, 1961 ["Act" in short] r.w. Rule 8D of Income Tax Rules. Common ground has been raised in both the appeals, heard together and being disposed of by this common order for the sake of brevity. First, we shall take up the facts in I.T.A. No. 1847/Chny/2019 for adjudication.

2. Brief facts of the case are that the assessee M/s. Sundaravel Marketing Company Pvt. Ltd. has filed the return of income for the assessment year 2014-15 admitting total income of ₹.29,41,270/-. The case of the assessee was selected for scrutiny. After considering the details filed against statutory notices, the assessment under section 143(3) r.w. section 92CA(3) of the Act was completed by assessing total income of the assessee at ₹. 30,08,537/- after making disallowance of ₹.67,267/- under section 14A of the Act r.w. Rule 8D. Similar disallowance under section 14A of the Act r.w. Rule 8D of ₹.3,75,794/- was made in the case of M/s. Sundaravel Match Industries Pvt. Ltd. On appeal, the Id. CIT(A) confirmed the disallowance made under section 14A of the Act r.w. Rule 8D in both the cases.

3. On being aggrieved, the assessee is in appeal before the Tribunal. None appeared on behalf of the assessee to represent the case when the

appeal was taken up for hearing. Hence we proceeded to decide the appeals after hearing the Id. DR.

4. We have heard the Id. DR through video conferencing, perused the materials available on record and gone through the orders of authorities below. During the course of assessment proceedings, the assessee was asked to explain as to why disallowance under section 14A of the Act should not be made for the exempt income earned during the financial year 2013-14 relevant to the assessment year 2014-15 since the assessee has not admitted any expenses towards earning of exempt income. In reply dated 03.10.2017, it was submitted that

“We have invested in equity shares of our associated companies to the tune of ₹.1,28,58,150/- as at 31.03.2014 and this investment was made out of our companies reserves and surplus of ₹.1,96,82,548/- as on 31.03.2014. We have received exempted dividend income of ₹.9,40,428/- as at 31.03.2014 and have not incurred any expenditure on this investments in shares. Hence disallowance u/s 14A is not applicable to our company.”

Against the above submissions that investment was made out of assessee companies reserve and surplus of ₹.1,96,82,548/-, the assessee has not established the above statement with any concrete evidence that the reserve and surplus was exclusively used only for the purpose of making investment. So far as investment made in earlier years, the assessee has not clarified through which bank accounts, the investments were routed and moreover, the assessee has not maintained any separate for investments. Since the

incurrence of establishment expenses, other administrative and general expenses, etc. cannot be ruled out in regard to maintaining of investment portfolio coupled with fact of involvement of key management personnel, experts, executives, officials, etc. in the decision making process and management of investment portfolio, some common expenses were ipso facto incurred by the assessee while managing its investment and earning the tax free income. Accordingly, by invoking the provisions of section 14A the Act r.w. Rule 8D, the Assessing Officer determined the disallowance of expenses at ₹.67,267/- and brought the same to taxation. Similarly, disallowance in the case of Sundaravel Match Industries Pvt. Ltd. was also made at ₹.3,75,794/- under section 14A of the Act r.w. Rule 8D. On appeal on on similar disallowance, by following the decision of the Tribunal in the case of Sundaravel Match Industries Pvt. Ltd. v. DCIT in I.T.A. No. 2988/Chny/18 dated 31.01.2019 for the assessment year 2013-14, the Id. CIT(A) confirmed the disallowance under section 14A of the Act in both the assessee's case by by following the decision of the Tribunal in the case of Sundaravel Match Industries Pvt. Ltd. v. DCIT in I.T.A. No. 2988/Chny/2018 dated 31.01.2019 for for the assessment year 2013-14. We have perused the case law followed by by the Id. CIT(A), wherein, the Coordinate Benches of the Tribunal has observed and held as under:

“4. We have considered the rival contentions and perused the orders of the authorities below. It is not disputed by the assessee that it had investments

in shares averaging to Rs.1,08,03,146/-. Claim of the assessee is that it had more than sufficient share capital and reserves and there was no loan funds used for such investment in shares. However, assessee has not been able to place on record, when the investments were made and how the funds for making such investments were raised, at the point of time when it was made. It may be true that assessee had share capital and reserves exceeding the investment amount in the relevant previous year. However, factual aspect regarding source of funds used for investments in shares, which admittedly was done in an earlier year was not brought out by the assessee before the ld. AO or ld. CIT(A). Ld. AO had applied only limbs (ii) and (iii) of Rule 8D(2) and had not made any disallowance for any direct expenditure or direct interest payments. We also find that assessee had not made any suo motu disallowances u/s.14A of the Act. In the circumstances, we are of the opinion that disallowance applying Rule 8D(2)(ii) and 8D (2) (iii) were rightly done. We therefore do not find any reason to interfere with the orders of the lower authorities.

5. *In the result, the appeal of the assessee stands dismissed.*

Respectfully following the above decision of the Tribunal in assessee's own case for earlier assessment year, the ground raised by both the assessees stand dismissed.

5. In the result, both the appeals filed by the assessees are dismissed.

Order pronounced on the 22nd December, 2020 in Chennai.

Sd/-
(G. MANJUNATHA)
ACCOUNTANT MEMBER

Sd/-
(DUVVURU RL REDDY)
JUDICIAL MEMBER

Chennai, Dated, 22.12.2020

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.