

*IN THE INCOME TAX APPELLATE TRIBUNAL  
KOLKATA BENCH "A-SMC" KOLKATA*

Before **Shri Sanjay Garg, Judicial Member**

आयकर अपील सं.य/ <b>ITA No.616/Kol/2020</b> Assessment Year:2012-13
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Himadri Credit & Finance Ltd 23A, Netaji Subhas Road, 8 <sup>th</sup> Fl., Suite No. 15, Kolkata-700 001. <b>[PAN No. AAACH8166K]</b>	<u>बनाम/</u> <b>V/s.</b>	D.C.I.T, CC-2(1), Kolkata O/o the Dy. Commissioner of Income Tax, C.C 2(1), Aaykar Bhawan Poorva, 110 Shantipally, Kolkata- 107.
अपीलार्थी /Appellant	..	प्रत्यर्थी /Respondent

**Hearing through video Conferencing**

अपीलार्थी की ओर से/By Appellant	Mr. Ravi Tulsian, FCA, AR
प्रत्यर्थी की ओर से/By Respondent	Mr. Jayanta Khanra, JCIT, Sr.DR
सुनवाई की तारीख/Date of Hearing	09-02-2021
घोषणा की तारीख/Date of Pronouncement	09-02-2021

**आदेश /O R D E R**

The present appeal has been preferred by the assessee against the order dated 15-10-2020 of the Commissioner of Income-tax (Appeals), Kolkata [hereinafter referred to as 'CIT(A)'].

2. The only issue raised in this appeal is relating to the confirmation of the disallowance made by Learned Assessing Officer [hereinafter referred to as 'Ld. AO'] on account of expenditure relatable to tax exempt income earned by the assessee by invoking the provisions of section 14A of the Income-tax Act, 1961 [hereinafter referred to as the 'Act'] read with section 8D of the Income-tax Rules 1962 [hereinafter referred to as the 'Rules'].

3. The assessee during the year under consideration earned tax exempt dividend income of Rs.9,76,000/-. The assessee made suo motu disallowance of Rs. 95,800/- on account of expenditure incurred relating to tax exempt dividend income earned by

the assessee. The Ld. AO, however, by invoking the provisions of section 14A of the Income-tax Act read with Rule 8D of the I.T Rules calculated the disallowance at Rs.18,52,755/-. In appeal, the Ld. CIT(A), however, restricted the said disallowance to Rs. 8,11,208/-.

Being not satisfied with the above partial relief given by the Ld. CIT(A), the assessee has come in appeal before this Tribunal.

4. At the outset, Ld. Counsel for the assessee has submitted that as per provisions of section 14A of the Act, before applying Rule 8D of the I.T Rules, the AO was supposed to go through the calculations and the method adopted by the assessee in making the suo motu disallowance of Rs. 95,800/-. That the AO was required to record the satisfaction that the method adopted by the assessee was not correct, only then he could have invoked the provisions of section 14A of the Act read with Rule 8D of the I.T Rules to calculate the disallowance. It has been further pleaded by him that the Ld. AO while making the impugned disallowance also added the disallowance of interest expenditure incurred under Rule 8D(2)(ii) of the I.T Rules. That, in fact, the assessee did not incur any such interest expenditure for making any investments. That the assessee in fact has earned net positive interest income, therefore, it cannot be said that the assessee incurred any interest expenditure. It has been further submitted by the Ld. Counsel for the assessee that the investments in question were made by the assessee in the group company of the assessee. That taking into consideration the entire facts and circumstances in respect of investments made, the suo motu disallowance of Rs. 95,800/- by the assessee was, in fact, more than the expenditure incurred by the assessee in making the investments. It has been further submitted that the disallowance of expenditure under no circumstances, could exceed the total expenditure claimed by the assessee. Therefore, the reasonable disallowance of expenditure could have been made by the Ld. AO out of the tax exempt income earned by the assessee.

5. The Ld. DR, on the other hand, submitted that the Ld. CIT(A) has already given adequate relief to the assessee and has restricted the disallowance at Rs. 8,11,208/- as against the disallowance of Rs.18,52,755/- made by the Ld. AO.

6. I have heard the rival contentions and gone through the record. After considering the rival contentions, I am of the view that the Ld. AO straight way applied Rule 8D of the I.T Rules without considering the method / calculation adopted by the assessee for making the suo motu disallowance. The Ld. Counsel for the assessee has submitted that all the investments were old investments and no new investments were made by the assessee. Therefore, no special efforts or involvements of human power/infrastructure was there in the assessment year under consideration in respect of investments made in earlier assessment years. I find force in the contentions raised by the Ld. Counsel for the assessee. The disallowance of interest expenditure was not warranted in this case. However, the Ld. Counsel for the assessee has submitted that the assessee will be satisfied if the disallowance is restricted at Rs.2,50,000/-. Considering the facts and circumstances of the case, the disallowance made u/s. 14A read with rule 8D is restricted at Rs. 2,50,000/-.

The appeal of the assessee is partly allowed.

Order pronounced in open court at the close of the hearing on  
9<sup>th</sup> February, 2021.

Sd/-  
(Sanjay. Garg)  
Judicial Member

Kolkata,

\*\*PP/Sr.PS दिनांक:- 09/02/2021 कोलकाता

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

1. अपीलार्थी/Appellant-M/s. Himadri Credit & Finance Ltd 23A, Netaji Subhas Road, 8<sup>th</sup> Fl., Suit No. 15, Kolkata-700 001.
2. प्रत्यर्थी/Respondent-DCIT, C.C 2(1), Aaykar Bhawan Poorva, 110 Shantipally Kolkata-700 107.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त- अपील / CIT (A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण कोलकाता / DR, ITAT, Kolkata
6. गार्ड फाइल / Guard file.

/True Copy/ By order/आदेश से,

उप/सहायक पंजीकार  
आयकर अपीलीय अधिकरण,कोलकाता ।