

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES "F" : DELHI
BEFORE SHRI BHAVNESH SAINI, JUDICIAL MEMBER
AND
SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER
ITA.No.1220/Del./2018
Assessment Year 2014-2015

M/s. Raghukul Trading Pvt. Ltd., D-196, Sector-63, Noida. PAN AABCR2770G	vs.	The ACIT, Circle-2, CGO Complex-2, Kamla Nehru Nagar, Ghaziabad.
(Appellant)		(Respondent)

For Assessee :	Shri R.S. Singhvi, C.A.
For Revenue :	Shri Gurmel Singh, Sr. D.R.

Date of Hearing :	03.03.2021
Date of Pronouncement :	03.03.2021

ORDER

PER BHAVNESH SAINI, J.M.

This appeal by Assessee has been directed against the common Order of the Ld. CIT(A), Ghaziabad, Dated 28.12.2017, for the A.Y. 2014-2015, challenging the addition of Rs.24,27,800/- under section 14A of the I.T. Act, 1961 read with Rule 8D of the I.T. Rules, 1962.

2. We have heard the Learned Representatives of both the parties through video conferencing and perused the material on record.

3. Briefly the facts of the case are that assessee filed return of income declaring income of Rs.42,05,790/-. The assessee company derives income from Finance and Investment. During the year the receipts were disclosed by the assessee company at Rs.1,34,84,607/- and declared net profit of Rs.41,59,822/-. The assessee claimed interest expenses of Rs.64,58,319/- in assessment year under appeal. The A.O. issued show cause notice as to why interest be not disallowed under section 14A of the I.T. Act, 1961. The A.O. while applying Rule 8D of the I.T. Rules, made disallowance of Rs.24,27,800/- under section 14A of the I.T. Act, 1961.

3.1. The assessee contended before the Ld. CIT(A) that since assessee has not claimed any exempt income in assessment year under appeal, therefore, the issue is covered by Judgment of the Hon'ble Delhi High Court in the case of Cheminvest vs., CIT [2015] 378 ITR 33 (Del.). The

Ld. CIT(A) following his Order for the A.Y. 2012-2013 confirmed the addition and dismissed the appeal of assessee.

4. After considering the rival submissions, we are of the view that the addition is wholly unjustified. Learned Counsel for the Assessee submitted that assessee has not earned any dividend income and has not claimed any exempt income earned in assessment year under appeal. In A.Y. 2012-2013 the ITAT, Delhi B-Bench, Delhi in the case of assessee in ITA.No.106/Del./2017 vide Order Dated 20.04.2017 had deleted the similar addition. The Order of the Tribunal in para-5 is reproduced as under :

“5. After considering the relevant finding given in the impugned order and also the submissions made by the parties, we find that it is an undisputed fact that the assessee has not earned any dividend or any kind of exempt income during the year. Whence there is no exempt income claimed by the assessee, then the ratio laid down by the Hon’ble Jurisdictional High Court in Cheminvest Ltd. vs.

CIT (Supra) that if the assessee has not earned any exempt income or when there is no actual receipt of any income which does not form part of the total income, no disallowance u/s 14A can be made, is clearly applicable here. We therefore, respectfully following the said principle laid down by the Honhle Jurisdictional High Court, hold no disallowance u/s 14A can made in this year, because, admittedly there is no exempt income earned by the assessee in this year. Thus, the disallowance as confirmed by the Learned CIT(Appeals) stands deleted.”

4.1. He has, therefore, submitted that the issue is covered in favour of the assessee.

4.2. In view of the above, it is clear that assessee did not earn any exempt income in assessment year under appeal and that Ld. CIT(A) has followed his Order for the A.Y. 2012-2013 for dismissing the appeal of assessee. However, the Order of the Ld. CIT(A) for the A.Y. 2012-2013 have already been set aside and similar addition have been

deleted by the Tribunal. The issue is, therefore, covered by the Order of the ITAT, Delhi B-Bench, Delhi Dated 20.04.2017 in the case of the same assessee for the A.Y. 2012-2013 (supra). Following the same, we set aside the Orders of the authorities below and delete the entire addition. Accordingly, appeal of the Assessee is allowed.

5. In the result, appeal of the Assessee allowed.

Order pronounced in the open Court.

Sd/-
(N.K. BILLAIYA)
ACCOUNTANT MEMBER

Sd/-
(BHAVNESH SAINI)
JUDICIAL MEMBER

Delhi, Dated 03rd March, 2021

VBP/-
Copy to

1.	The appellant
2.	The respondent
3.	CIT(A) concerned
4.	CIT concerned
5.	D.R. ITAT 'F' Bench, Delhi
6.	Guard File.

// BY Order //

Assistant Registrar : ITAT Delhi Benches :
Delhi.