

THE INCOME TAX APPELLATE TRIBUNAL
"G" Bench, Mumbai
Shri Shamim Yahya (AM) & Shri Amarjit Singh (JM)

I.T.A. No. 3174/Mum/2018 (Assessment Year 2013-14)

DCIT, CC-3(3) Central Range-3 Room No. 1923 19 th Floor Air India Building Nariman Point Mumbai-400 021.	Vs.	M/s. Welspun Energy Private Limited 7 th Floor, Welspun House, Kamala City, Senapati Bapat Marg Lower Parel Mumbai-400 013. PAN : AAACW2876K
(Appellant)		(Respondent)

Assessee by	Shri Romit Jain
Department by	Shri T.S. Khalsa
Date of Hearing	02.03.2021
Date of Pronouncement	02.03.2021

ORDER

Per Shamim Yahya (AM) :-

This appeal by the revenue is directed against order of learned Commissioner of Income Tax (Appeals) [in short learned CIT(A)] dated 1.2.2018 and pertains to assessment year 2013-14.

2. The grounds of appeal read as under :-

1. "On the facts and in the circumstances of the case and in law the Ld. CIT(A) erred in deleting the addition made by the AO u/s 14A of the Act rwr 8D(2)(ii) by holding that own interest free funds available with the assessee are more than the amount of investment made, even though the CBDT circular no 5/2014 dated 11.02.2014 does not specify any such exclusion".

2. "On the facts and in the circumstances of the case and in law the Ld. CIT(A) erred in restricting the disallowance u/s 14A rwr 8D(2)(iii) to the extent of exempt income earned during the year, not appreciating the fact that the CBDT circular no 5/2014 dated 11.02.2014 does not mention that the disallowance u/s 14A of the IT Act should be restricted to the amount of exempt income earned during the year".

3. At the outset it is noted that that the tax effect in this case is below the limit of Rs. 50,00,000 fixed by CBDT vide Circular No. 17/2019 dated 8/8 2019 for filing appeal before the ITAT. Hence this appeal by the revenue is not maintainable. The addition made by the AO is Rs. 1,58,15,456/-. The learned CIT(A) has sustained the addition to the extent of Rs. 75,32,723/-.

4. Ld DR could not dispute that the tax effect is below the said limit. He could not point out that the appeal falls in any of the exceptions carved in said circular.

5. Upon careful consideration we find that as the tax effect is below the limit fixed by CBDT for filing appeals before the ITAT, this appeal by the revenue is liable to be dismissed in limine. The revenue will have liberty to seek restoration of the appeal if the tax effect is found to be beyond the above limit.

6. Accordingly the appeal stands dismissed as such.

Pronounced in the open court on 2.3.2021.

Sd/-
(AMARJIT SINGH)
JUDICIAL MEMBER

Sd/-
(SHAMIM YAHYA)
ACCOUNTANT MEMBER

Mumbai; Dated : 02/03/2021

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT
5. DR, ITAT, Mumbai
6. Guard File.

//True Copy//

BY ORDER,

(Assistant Registrar)
ITAT, Mumbai

PS