

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ 'A' अहमदाबाद ।
IN THE INCOME TAX APPELLATE TRIBUNAL
"A" BENCH, AHMEDABAD
(Conducted through Virtual Court)
BEFORE SHRI RAJPAL YADAV, VICE-PRESIDENT
AND
SHRI AMARJIT SINH, ACCOUNTANT MEMBER

ITA No.2321/Ahd/2010
निर्धारण वर्ष/ Asstt.Year : 2006-07

Gaurang M. Doshi 26, Samasta Brahmkshtriya Society Narayananagar Road Paldi, Ahmedabad 380 007.	Vs.	ACIT, Cent.Cir.2(1) Ahmedabad.
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(Applicant)		(Responent)
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Assessee by :	Shri S.N. Divetia, AR
Revenue by :	Shri S.S.Shukla, Sr.DR

सुनवाई की तारीख/Date of Hearing : 24/03/2021
घोषणा की तारीख /Date of Pronouncement: 25 /03/2021

आदेश/O R D E R

PER RAJPAL YADAV, VICE-PRESIDENT:

Present appeal is directed at the instance of the assessee against order of the Id.CIT(A)-III, Ahmedabad dated 17.5.20210 passed for the Asstt.Year 2004-05 to 2006-07. Assessment year involved in the present appeal is 2006-07.

2. The assessee has raised as many as eight grounds in the grounds of appeal attached in the form no.36. However, ld.counsel for the assessee has pressed only ground no.3.1, vide which the assessee has aggrieved by action of the Id.CIT(A) in partly confirming the disallowance under section 14A to Rs.35,956/-. Therefore, we take only this issue for adjudication and dispose of the appeal.

3. Brief facts necessary for disposal of this issue is that the assessee is an individual engaged in share trading. He has filed return of income on 12.7.2007 declaring total income at Rs.4,01,330/-. The return was thereafter selected for scrutiny assessment by issuance of notice under section 143(2). During the assessment proceedings, the Id.AO noticed that the assessee has claimed dividend income of Rs.1,19,854/- as exempt income. To the show cause by the Id.AO as to why disallowance under section 14A should not be made in respect of exempt income, the assessee submitted that since this income and related were reflected in the profit & loss account, no disallowance was called for. The Id.AO however treated 30% of such dividend income on an estimate basis as disallowance under section 14A of the Act and accordingly made addition of Rs.35,956/- being 30% of Rs.1,19,854/-. This issue was agitated before the Id.first appellate authority without success. Assessee is now before the Tribunal.

4. Before us the Id.counsel for the assessee reiterated submissions as were made before the Revenue authorities. He further submitted that since the issue related to the assessment year 2006-07, and as such estimation of disallowance without any basis is not justified. On the other hand, the Id.DR supported the orders of the Revenue authorities.

5. We have considered rival submissions and gone through the record carefully. We find that the assessee has claimed exempt income which was not disputed by the AO, dispute is with regard to reasonableness of the AO in estimating quantum of disallowance. Prior to 1.4.2007, there was no methodology for calculation of disallowance under section 14A of the Act. Thereafter, Rule 8D was

inserted so as to provide the manner and method in which the amount of expenditure incurred in relation to exempt income is to be determined by the Assessing Officer. In the instant case, assessment year involved is 2006-07, and the assessee earned a small amount of Rs.1,19,854/-by way of exempt income. Section 14A provides that expenses incurred can be allowed only to the extent they are relatable to the earning of taxable income. The assessing officer has determined the disallowance under section 14A of the Act on estimation basis, which in our view is very much on the higher side more so in the absence of any details for determining quantum of disallowance. The AO has not disputed meager exempt income earned by the assessee, and has not adopted a reasonable method for effecting the impugned disallowance. Therefore, adhoc disallowance without any basis cannot be justified. Thus, by taking a pragmatic view, we incline to reduce the disallowance made by the Revenue to the extent of Rs.15,956/-. In other words, the assessee would get a further relief of Rs.20,000/- and restrict disallowance to Rs.15,956/-. Thus, we partly allow this ground of the appeal.

6. In the result, appeal of the assessee is partly allowed.

Order pronounced in the Court on 25th March, 2021 at Ahmedabad.

Sd/-
(AMARJIT SINGH)
ACCOUNTANT MEMBER

Sd/-
(RAJPAL YADAV)
VICE-PRESIDENT

Ahmedabad; Dated 25/03/2021