

आयकर अपीलीय अधिकरण , ' ए ' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
"A" BENCH, CHENNAI

श्री धुव्वुरु आर. एल रेड्डी, न्यायिक सदस्य एवं, श्री एस जयरामन, लेखा सदस्य समक्ष

BEFORE SHRI DUVVURU RL REDDY, JUDICIAL MEMBER AND
SHRI S. JAYARAMAN, ACCOUNTANT MEMBER

आयकर अपील सं./I.T.A. No: 1468/Chny/2019

निर्धारण वर्ष/Assessment Year : 2016-17

M/s. Tractors and Farm Equipment Ltd., Vs. Commissioner of Income Tax
No. 35, Uthamar Gandhi Salai, (Appeals) – 11,
Nungambakkam, Chennai - 34.
Chennai – 600 034.

[PAN:AAACT 2761Q]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri. R. Vijayaraghavan, Advocate

प्रत्यर्थी की ओर से/Respondent by : Shri. G. Chandrababu, Addl. CIT

सुनवाईकीतारीख/Date of Hearing : 10.02.2021

घोषणाकीतारीख/Date of Pronouncement : 07.04.2021

आदेश/ O R D E R

PER S. JAYARAMAN, ACCOUNTANT MEMBER:

The assessee filed this appeal against the order of the Commissioner of Income Tax (Appeals)- 11, Chennai in ITA No. 79/18-19 dated 13.03.2019 for the assessment year 2016-17.

2. M/s. Tractors and Farm Equipment Ltd., the assessee, is engaged in the business of manufacture of Automobile and Autoparts. While making the assessment for assessment year 2016-17, the Assessing Officer, inter alia, quantified the disallowance u/s. 14A r.w.r. 8D at Rs. 1,40,98,942/-, from which he deducted Rs. 18,84,252/-, the amount voluntarily disallowed by the assessee and then made the disallowance at Rs. 1,22,14,640/-. Aggrieved, the assessee filed an appeal before the CIT(A). The Ld. CIT(A) partly allowed the appeal. Aggrieved against that order, the assessee filed this appeal.

3. The case was heard through video conferencing. The Ld. AR submitted that the assessee received dividend income towards which the assessee itself worked out Rs. 18,84,252/- as an expenditure incurred for earning the said dividend income. The AO without giving any cogent reasons for rejecting the correctness of the disallowance offered by the assessee, made the impugned disallowance u/s. 14A r.w.r. 8D. On appeal, the Ld. CIT(A) without appreciating the facts held that the interest of Rs. 1.49 crores incurred towards dealer deposits is to be considered for disallowance u/s. 8D(2)(ii) and Rs. 1.22 crores is to be considered for disallowance u/s. 8D(2)(iii). In the assessee's case, all the investments have been made with the assessee's own funds and no borrowings were used for making the investments. Therefore, the assessee has not incurred any expenditure for earning the dividend income. The AO without examining the accounts and without giving any cogent reasons for rejecting the correctness of the disallowance offered by the assessee made the routine disallowance. The

court have held that unless the AO establishes that specific expenditure has been incurred by the assessee for earning exempt income, disallowance should not be made u/s. 14A r.w.r. 8D. In this regard, the Ld. AR invited our attention to the Delhi High Court's decision in the case of Pradeep Khanna vs ACIT in ITA No. 953/2015, 399 ITR 146 (Del), wherein the head note read as under:

"Held, in Taikish Engineering Private Ltd's case, this court had after analyzing s 14A and r 8D (of Income Tax Rules) held that sub-r(1) categorically and significantly states that AO having regard to account of assessee and on not being satisfied with correctness of claim of expenditure made by assessee or claim that no expenditure was incurred in relation to income which did not form part of total income under Act, could go on to determine disallowance under sub-r (2) to Rule 8D of the Rules-Sub-rule (2) would not come into operation until and unless specific pre-condition in sub-rule (1) was satisfied - In the present case, AO had not analysed objectively in terms of decision in shah – It was firstly incumbent upon him to in fact examine accounts closely and determine if at all any expenditure could be ascribed to tax exempt dividend/interest earned by assessee – If indeed tax exempted income was earned without interference of any employee but rather through solicitation and advertisement of bank question of attributing any expenditure could not arise at all – In circumstances, order was set aside – Matter was remitted to AO for fresh determination in accordance with judgement of this court in Taikisha Engineering Private Limited's case."

The Ld. AR further submitted that the Ld. CIT(A) ought to have held that only the average value of investments, income from which shall not form part of the total income, should be taken into consideration for computation. Investments from which no dividend income was received should not be considered for the purposes for computing the disallowance . In this regard, the Ld. AR relied on the decision of ACB India Ltd., vs ACIT 62 Taxmann.com 71 (Delhi) and further

submitted that the investments which did not yield dividend income should be excluded in accordance with the Special Bench decision of the ITAT in the case of Vreet Investment Ltd. Per contra, the Id. DR supported the orders of the lower authorities.

4. We heard the rival submissions and gone through the relevant materials. It is seen from the assessment order that the AO made disallowance u/s. 14A mainly for the reason that the investment made by the assessee in the subsidiary company to the extent of Rs. 225.17 crores was not considered by the assessee for the purpose of working of the disallowance u/s. 14A. However, it is seen that the assessee has taken a plea before the Ld. CIT(A) that there is no borrowings in the assessee's case and therefore no disallowance is to be made under the Rule 8D(ii). The investments in subsidiaries are held for strategic purpose. Therefore, no administrative expenditure was incurred as there is no monitoring required on such investments and the dividend from such investments are directly credited in the assessee's bank. However, the assessee voluntarily disallowed Rs. 18.84 lakhs under the Rule 8D(iii) considering some expenditure relating to banking operations etc. Thus, it appears from the orders of the lower authorities, the assessee's plea were not examined with reference to its accounts duly. Therefore, we deem it fit to remit this issues back to the AO for a fresh examination. The assessee shall lay relevant material in support of its contention before the AO and comply with the requirements of the AO in accordance with the law. The AO on due examination of them and after giving due opportunity to

the assessee, shall determine the issues in accordance with law and pass a due order.

5. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced on 07th April, 2021 at Chennai.

Sd/-

(धुव्वुरु आर.एल रेड्डी)

(DUVVURU RL REDDY)

न्यायिकसदस्य/Judicial Member

Sd/-

(एस जयरामन)

(S. JAYARAMAN)

लेखासदस्य/Accountant Member

चेन्नई/Chennai,

दिनांक/Dated: 07th April, 2021

JPV

आदेशकीप्रतिलिपिअग्रेषित/Copy to:

1. अपीलार्थी/Appellant 2. प्रत्यर्थी/Respondent
4. आयकरआयुक्त/CIT 5. विभागीयप्रतिनिधि/DR

3. आयकरआयुक्त अपील(/CIT(A)
6. गार्डफाईल/GF