

**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES "A" : HYDERABAD
(THROUGH VIDEO CONFERENCE)**

**BEFORE SHRI S.S.GODARA, JUDICIAL MEMBER
AND
SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER**

I.T.A. No. 2044/HYD/2018

Assessment Year: 2014-15

Dy.Commissioner of Income Tax, Central Circle-2(1), HYDERABAD	Vs	M/s.Indu Projects Limited, HYDERABAD [PAN: AAACI8812M]
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(Appellant)

(Respondent)

For Revenue : Dr.Dipak R., DR
For Assessee : Shri Md.Afzal, AR

Date of Hearing : 22-03-2021
Date of Pronouncement : 04-05-2021

ORDER

PER S.S.GODARA, J.M. :

This Revenue's appeal for AY.2014-15 arises from the CIT(A)-12, Hyderabad's order dated 23-07-2018 passed in appeal No.10102 / 2017-18 in proceedings u/s.143(3) of the Income Tax Act, 1961 [in short, 'the Act'].

Heard both parties. Case file perused.

2. The Revenue's sole substantive grievance raised in the instant appeal directing the Assessing Officer to restrict Section 14A r.w. Rule 8D disallowance of Rs.28,94,60,727/- to the extent of exempt income only amounting to Rs.11.60 lakhs as under:

"5.3 I have carefully considered the submissions made by the appellant as well as the observations of the AO in the impugned order. The various judicial pronouncements on the subject, relied upon by the Assessing Officer as well as by the appellant's AR, have been perused. The appellant's AR has quoted a number of decisions in support of his contention that disallowance u/s.14A has to be restricted to the exempt income earned by the assessee during the relevant Assessment year. The facts of the present case are that exempt income of Rs.11,60,000/- has been earned by the appellant during the year under consideration. This fact has not been disputed by the Assessing Officer also, who, however, has relied upon case-laws on different aspects of this issue, and has computed the disallowance as per the provisions of Section 14A r.w.Rule 8D(2), at Rs.28,94,60,727/-. After perusing the various judgements on the issue, it is seen that, now it is settled position of law that the disallowance u/s 14A read with Rule 8D should be restricted to the exempt income earned during the year. The decisions are as under:

- (i) Joint Investment Pvt. Ltd. (Hon'ble Delhi High Court) (372 ITR 694)
- (ii) Nimbus Communications Ltd. (Hon'ble ITAT, Mumbai) 47 ITR(T) 496
- (iii) Daga Global Chemicals Pvt. Ltd. (Hon'ble ITAT, Mumbai) (ITA No.5592/Mum/2012)
- (iv) Pest Control India Pvt Ltd vs DCIT (Mum ITAT) (ITA No. 5048/Mum/2016 & ITA No. 5608/Mum/2016)
- (v) Pr.CIT vs M/s Empire Package Pvt. Ltd. (Punjab & Haryana HC) (ITA No. 415 of 2015)
- (vi) Sanghavi Exports International P Ltd vs ACIT (ITA No. 3405/Mum/2015)

In its recent judgement dated 22-05-2018 in the case of M/s.Jasper Industries Private Limited, Vs. DCIT, Circle-2(1), Hyderabad (ITA No.1403/Hyd/2017), the Hon'ble ITAT 'A' Bench, Hyderabad, held as under:

"3. The learned DR supported the order of the AO and also placed reliance upon the decision of the Coordinate Bench of the Tribunal at ITAT Amritsar in the case of Lally Motors India (P) Ltd vs. Pr.CIT reported in (2018) 93 Taxmann.com 39 (Amritsar - Trib.) whereas the learned Counsel for the assessee has placed reliance upon the following decisions:

- i) Hon'ble Delhi High Court in the case of Jt.Investments (P) Ltd vs. CIT in ITA No.117/2015 dated 25th February 2015.
- ii) ITAT Hyderabad in the case of Kamadhenu Sukrit Put Ltd vs. ITO in ITA No.460/Hyd/ 2017, dated 22.11.2017

iii) *ITAT Hyderabad in the case of M/s. TGV Projects & Investments (P) Ltd vs. Asstt. CIT in ITA No.846/Hyd/2016, dated 28.02.2017.*

iv) *Hon'ble High Court of Punjab & Haryana in the case of Pr.CIT vs. Empire Package (P) Ltd reported in (2017) 81 Taxmann.com 108 (P&H HC) dated 12th January, 2016.*

4. *Having regard to the rival contentions and the material on record, we find that this issue is covered in favour of the assessee by the decision of the Hon'ble Delhi High Court (Supra), wherein it has been clearly held that the disallowance u/s 14A cannot exceed the exempt income earned by the assessee. In similar cases, the Coordinate Benches of this Tribunal have been following the decisions of various High Courts to the effect that when there is no exempt income, there cannot be any disallowance u/s 14A of the Act and further that the disallowance u/s 14A cannot exceed the exempt income earned by the assessee. Therefore, we see no reason to interfere with the order of the CIT (A). Accordingly, Revenue's appeals is dismissed".*

Respectfully following the judgement of the jurisdictional Tribunal, therefore, the addition made by the Assessing Officer on this issue is ordered to be deleted".

3. It has come on record that the CIT(A)'s order has duly considered a catena of case law (supra) to uphold the impugned 14A r.w. Rule 8D disallowance in principle but to be restricted to the extent of exempt income only for the purpose of quantification thereof. No judicial precedent to the contrary has been quoted from the Revenue's side. We thus affirm the CIT(A)'s action restricting the same in foregoing terms.

4. This Revenue's appeal is dismissed.

Order pronounced in the open court on 4th May, 2021

Sd/-
(LAXMI PRASAD SAHU)
ACCOUNTANT MEMBER

Hyderabad, Dated: 04-05-2021

TNMM

Sd/-
(S.S.GODARA)
JUDICIAL MEMBER

Copy to :

1.Dy.Commissioner of Income Tax, Central Circle-2(1), Hyderabad.

2.M/s.Indu Projects Limited, #1009, Indu Fortune Fields, 13th Phase, KPHB Colony, Kukatpally, Hyderabad.

3.CIT(Appeals)-12, Hyderabad.

4.Pr.CIT-Central, Hyderabad.

5.D.R. ITAT, Hyderabad.

6.Guard File.