

आयकर अपीलीय अधिकरण, 'डी' न्यायपीठ, चेन्नई

**IN THE INCOME TAX APPELLATE TRIBUNAL  
'D' BENCH: CHENNAI**

श्री वी दुर्गा राव, न्यायिक सदस्य एवं श्री एस जयरामन, लेखा सदस्य के समक्ष

**BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER  
AND  
SHRI S. JAYARAMAN, ACCOUNTANT MEMBER**

आयकर अपील सं./I.T.A. No: 1722/Chny/2018

निर्धारण वर्ष/Assessment Year : 2014-15

Shri. Ashok Kumar Kanodia,  
1 DPF Lane, Bharathiyar Road,  
Pappanaickenpalayam,  
Coimbatore – 641 037.

The Assistant Commissioner of  
Vs. Income Tax,  
Non-Corporate Circle -1,  
Coimbatore.

**[PAN: AFRPK 2117G]**

**(अपीलार्थी/Appellant)**

**(प्रत्यर्थी/Respondent)**

अपीलार्थीकीओरसे/Appellant by

: Shri. L. Shibi

प्रत्यर्थीकीओरसे/Respondent by

: Ms. R. Anita, JCIT

सुनवाईकीतारीख/Date of Hearing

: 30.06.2021

घोषणाकीतारीख/Date of Pronouncement

: 02.07.2021

**आदेश/ ORDER**

**PER S. JAYARAMAN, ACCOUNTANT MEMBER:**

The assessee filed this appeal against the order of the Commissioner of Income Tax (Appeals)-2, Coimbatore in ITA No. 458/16-17 dated 23.03.2018 for the assessment year 2014-15.

2. Shri. Ashok Kumar Kanodia, the assessee, an individual, derives income from salary, house property, business and income from other sources. He is running a factory for manufacturing and sale of LPG stove in the name and style of "Modern Home Appliances". While making the assessment for assessment year 2014-15, the AO invoked provisions of section 14A r.w.r. 8D and made a disallowance of Rs. 13,25,188/-. Aggrieved, the assessee filed an appeal before the CIT(A). The Ld. CIT(A) dismissed the appeal. Aggrieved against that order, the assessee filed this appeal.

3. The case was heard through video conferencing. The Ld. AR invited our attention to the copy of statement of income filed in the paperbook and submitted that the assessee received Rs. 241/- as dividend income and claimed the same as an exempt income u/s. 10(34). The AR submitted before the Ld. CIT(A) that the appellant received dividend of Rs. 241/- only as an exempt income and the assessee has not borrowed any money during the year nor made investments which could fetch exempt income. The borrowings already made were meant for the business and hence disallowance u/s. 14A is not required. However, the Ld. CIT(A) without appreciating the facts and circumstances dismissed the appeal. The Ld. CIT(A) failed to appreciate that the disallowance, if any, which could be made u/s. 14A r.w.r. 8D cannot exceed the exempt income. In this regard, the Ld. AR invited our attention to the Jurisdictional High Court decision in the case of Marg Ltd., vs CIT, Chennai

(2020) 120 Taxmann.com 84, Madras in TCA No. 41 to 43 and 220 of 2017 dated 30.09.2020. Wherein, the head note is extracted as under:

*"Disallowance under rule 8D read with section 14A can never exceed exempted income earned by assessee during particular assessment year, and same can be computed as per rule 8D only after recording satisfaction by Assessing Authority."*

and relied in support of his contentions. Per contra, the Ld. DR supported the orders of the lower authorities.

4. We heard the rival submissions and gone through the relevant materials. It is clear that the assessee earned dividend income of Rs. 241/- and claimed the same as an exempt income. Since, the Hon'ble Jurisdictional High Court has held that the disallowance under Rule 8D read with section 14A can never exceed exempted income earned by assessee during particular assessment year, the disallowance made by the Assessing Officer beyond Rs. 241/- is not sustainable and hence, the AO is directed to restrict the disallowance at Rs. 241/-. The assessee's appeal is allowed to this extent.

5. In the result, the assessee's appeal is partly allowed.

Order pronounced on 02<sup>nd</sup> July, 2021 at Chennai.

**Sd/-**

(वी दुर्गा राव)

**(V. DURGA RAO)**

न्यायिक सदस्य/**Judicial Member**

**Sd/-**

(एस जयरामन)

**(S. JAYARAMAN)**

लेखासदस्य/**Accountant Member**

चेन्नई/Chennai,

दिनांक/Dated: 02<sup>nd</sup> July , 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