

**IN THE INCOME TAX APPELLATE TRIBUNAL,
MUMBAI BENCH "C", MUMBAI**

**BEFORE SHRI RAJESH KUMAR, ACCOUNTANT MEMBER AND
SHRI RAVISH SOOD, JUDICIAL MEMBER**

**ITA No.800/M/2021
Assessment Year: 2015-16**

M/s. PineBridge Investments Capital (India) Pvt. Ltd., 1101, Tower-B, Peninsula Business Park, G.K. Marg, Lower authorities Parel, Mumbai-400 013 PAN: AAFCA 7262A	Vs.	Pr. CIT Range-8, Room No.611, 6 th Floor, Aayakar Bhavan, M.K. Road, Mumbai - 400020
(Appellant)		(Respondent)

Present for:

Assessee by : Shri Madhur Agarwal, A.R.
Revenue by : Shri Rajeev Sahu, D.R.

Date of Hearing : 22.07.2021
Date of Pronouncement : 04.08.2021

ORDER

Per Rajesh Kumar, Accountant Member:

The present appeal has been preferred by the assessee against the order dated 24.11.2017 of the Principal Commissioner of Income Tax [hereinafter referred to as the PCIT] relevant to assessment year 2015-16.

2. The common issue raised in all the three grounds of appeal is against the invalid exercise of revisionary jurisdiction by Ld. PCIT under section 263 of the Act whereby the Ld. PCIT has directed the AO to compute the disallowance under section 14A of the Act which runs contrary to the decision of Hon'ble Supreme Court and High Courts wherein these judicial forums

have held that no disallowance could be made where there is no exempt income during the year.

3. The facts in brief are that the assessment in this case was framed under section 143(3) of the Act vide order dated 24.11.2017. Thereafter, the Ld. PCIT, on perusal of the assessment records particularly note No.11 of balance sheet, observed that the assessee has made huge investments in shares in its Indian subsidiary, however, no disallowance under section 14A was made. The Ld. PCIT has further observed that these investments are capable of earning of exempt income nonetheless no income was derived in the year under consideration and since neither assessee nor AO disallowed any expenses as per rule 8D, therefore, the same was required to be worked out and disallowed accordingly. Consequently, the Ld. PCIT issued a notice under section 263 of the Act dated 19.03.2021 giving a show cause notice to the assessee as to why the assessment framed under section 143(3) dated 24.11.2017 should not be revised as the same is erroneous and prejudicial to the interest of the Revenue. The assessee submitted before the ld PCIT that assessee has not earned any exempt income during the year by placing reliance on various decisions as under:

1. CIT vs Chettinad Logiistics 9P) ltd (2017) 80 taxmann.com 221 (Madras)
2. Sunbeam Auto Ltd vs CIT (2011)(332 ITR 167)
3. Idea Cellular Ltd vs DOT (2008) 301 ITR 407
4. Max India Ltd vs CIT (1993) 203 ITR 108 (Bom HC)

The submissions of the Assessee did not find favour with the ld PCIT and he set aside the assessment framed u/s 143(3) of the Act dated 24.11.2017.

4. The Ld. A.R. submitted before the bench that since the assessee was not having any exempt income during the year, no disallowance was made either by the assessee or by the AO in view of the settled legal position as discussed hereinabove. The Ld. AR argued that assessment framed under section 143(3) dated 24.11.2017 was neither erroneous nor prejudicial to the interest of the Revenue as the same has been passed in consonance with various decisions as cited above of the Hon'ble Apex Court and various High Courts including jurisdictional High Court, therefore the order as passed by the Ld. PCIT under section 263 setting aside the assessment may kindly be quashed as the assumption of jurisdiction u/s 263 is wrong and invalid.

5. The Ld. D.R., on the other hand, relied heavily on the order of Ld. PCIT by submitting that at this stage it would be premature to look into the matter whether any disallowance under section 14A could be made or not. The Ld. D.R. submitted that the AO may examine the issue in the set aside proceedings and decide the matter accordingly.

6. After hearing both the parties and perusing the material on record, we find that the revisionary jurisdiction has been exercised by the Ld. PCIT under section 263 merely on the ground that AO has not made any disallowance under section 14A of the Act on the investments which are capable of yielding dividend income while accepting undisputedly that during the year the assessee has not received any exempt income by way of dividend from shares. We have also perused the decisions relied upon by the assessee of various high courts including jurisdictional High Court and also the decision of Hon'ble

Supreme Court in the case of Maxopp Investments Ltd. vs. CIT 402 ITR 604 (SC) wherein it has been held that no disallowance is called for where the assessee has not received any exempt income during the year from the investments. Besides we note that the AO has specifically examined this issue during the course of assessment proceedings and the assessee has filed detailed submissions before the AO and the AO, after taking into consideration the reply of the assessee, has taken a view that no disallowance is called for. In view of these facts and circumstances and the ratio laid down by various judicial forums, in our considered opinion the exercise of revisionary jurisdiction is invalid and consequently the proceedings u/s 263 of the Act and resultant order of PCIT is quashed.

7. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 04.08.2021.

Sd/-
(Ravish Sood)
JUDICIAL MEMBER

Sd/-
(Rajesh Kumar)
ACCOUNTANT MEMBER

Mumbai, Dated: 04.08.2021.

* Kishore, Sr. P.S.

Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The CIT (A) Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.