

**आयकर अपीलीय अधिकरण, "ए" न्याय पीठ, चेन्नई**  
**IN THE INCOME TAX APPELLATE TRIBUNAL, 'A' BENCH, CHENNAI**  
**श्री वी. दुर्गा राव, न्यायिक सदस्य एवं श्री जी. मंजुनाथ, लेखा सदस्य के समक्ष**  
**BEFORE SHRI V.DURGA RAO, JUDICIAL MEMBER**  
**AND SHRI G.MANJUNATHA, ACCOUNTANT MEMBER**

**आयकर अपील सं./I.T.A.No.2070/Chny/2018**

(निर्धारणवर्ष / Assessment Year: 2012-13)

M/s. United Metal Industries 9, McNichols Road, Chetpet, Chennai-600 031.	Vs	The Assistant Commissioner of Income Tax, Non-Corporate Circle-3 Chennai
PAN: AAAFU 1182F		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

अपीलार्थी की ओरसे/ Appellant by	:	Mr. S.Sridhar, Advocate
प्रत्यर्थी की ओरसे/Respondent by	:	Mr. Suresh Periasamy, JCIT

सुनवाई की तारीख/Date of hearing	:	04.08.2021
घोषणा की तारीख /Date of Pronouncement	:	18.08.2021

**आदेश / ORDER**

**PER G.MANJUNATHA, AM:**

This appeal filed by the assessee is directed against the order passed by the learned CIT(A)-4, Chennai dated 17.05.2018 and pertains to assessment year 2012-13.

2. The assessee has raised following grounds of appeal:-

*"1. The Assessing Officer and the Commissioner (Appeals) failed to even look into the issue of own funds being used for the investments and thus erred in the disallowance of interest under rule 8D(ii) amounting to Rs 10,33,188.*

*2. The Authorities below failed to appreciate that the ITAT had just given a basic guidance as to how 14A disallowance had to be done with regard to rule 8D (2)( iii) and the guidance was subject to the rules that existed at the relevant point in time.*

*3. The Assessing Officer erred in going beyond the scope of Rule 8D which clearly specifies how Average Investments are to be computed.*

*4. The Assessing Officer erred in disallowing interest when the Assessee had clearly proved that no borrowed funds have*

*been utilised for the purpose of investments earning tax free income.*

*5. The Assessing Officer erred in computing disallowances far in excess of the tax free income of Rs 7,57,560/- claimed by the Appellant.”*

3. Brief facts of the case are that in this case assessment has been completed u/s.143(3) of the Act on 02.01.2015 by making additions towards disallowances u/s.14A r.w.Rule 8D of Income Tax Rules, 1962, at Rs.8,48,746/-. The assessee has challenged additions made by the Assessing Officer before the CIT(A). The learned CIT(A) upheld additions made by the Assessing Officer. The assessee preferred appeal before the Tribunal and the Tribunal vide its order dated 14.06.2016 in ITA No.513/Mds/2016 set aside the appeal to the file of Assessing Officer and direct him to recompute disallowance u/s.14A by taking into average monthly investments for disallowance of interest expenses. Consequent to the order of the Tribunal, the Assessing Officer has taken up case for verification and on the basis of details submitted by the assessee recomputed disallowance u/s.14A at Rs.,.11,04,831/- by taking into account average monthly investments.

4. Being aggrieved by assessment order, the assessee preferred appeal before the CIT(A) . Before the learned CIT(A) the assessee submitted that even though the Tribunal has set aside the appeal with a direction to reexamine claim of the assessee with regard to availability of own capital for making investments and to compute average monthly investments, but the Assessing Officer has only considered average monthly investments to recompute disallowance u/s.14A of the Act. The learned CIT(A), after considering relevant submissions of the assessee and also taken note of order of the Tribunal, held that the Tribunal has directed to compute disallowance after determining average monthly investments. However, the assessee could not furnish any such computation. Accordingly, the Assessing Officer was left with no option, but to compute disallowance based on information available on record. Therefore, there is no error in the findings recorded by the Assessing Officer and computed disallowance u/s.14A by taking average value of investments, accordingly, rejected appeal filed by the assessee.

5. The learned AR for the assessee submitted that even though the Tribunal has directed the Assessing Officer to

examine claim of the assessee that it has surplus non-interest bearing funds for investments, the Assessing Officer has ignored findings of the Tribunal and went on to compute disallowance by taking into account average monthly investments without considering arguments of the assessee that it has sufficient own funds to cover up investments which yielded exempt income. Therefore, appeal may be set aside to the file of the Assessing Officer to give one more opportunity to the assessee to explain its case.

6. The learned DR, on the other hand, submitted that assessee has failed to file necessary details including proof of availability of own funds before the Assessing Officer, therefore, there is no reason to give another opportunity to the assessee to go back to the Assessing Officer.

7. We have heard both the parties, perused materials available on record and gone through orders of the authorities below. We find that the Tribunal in first round of litigation has recorded categorical finding that prima-facie, the assessee has invested idle funds in liquid dividend investment plans with J.M Financial Mutual Fund. However, set aside appeal to the file of

the Assessing Officer, with a direction to reconsider the issue and also to take average value of investments on monthly basis to determine disallowance u/s.14A of the Act. We further noted that in second round, the Assessing Officer has not considered plea of the assessee that it has sufficient own funds, but went on to compute disallowances by taking only average monthly investments made in mutual funds. It is a well settled principles of law that if the assessee is able to prove availability of own funds to make investments in shares and securities, which yield exempt income, then no disallowance can be made towards interest expenses. In this case, although the assessee claims to have own interest free funds, the Assessing Officer has not considered plea of the assessee and disallowed interest by taking only monthly average investments made in mutual funds. Therefore, we are of the considered view that the issue needs to be go back to the Assessing Officer once again to consider plea of the assessee that it has sufficient own funds to cover up investments made in mutual funds. Hence, we set aside the appeal to the file of the Assessing Officer and direct him to reconsider the issue in light of arguments of the assessee that it has idle interest free funds, which has been

used for making investments in mutual funds. In case, the assessee proves with necessary evidence with regard to availability of own funds, then the Assessing Officer is directed to consider availability of own funds while computing disallowances u/s.14A of the Act.

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

Order pronounced in the open court on 18<sup>th</sup> August, 2021

Sd/-  
( वी. दुर्गा राव )  
(V.Durga Rao)  
न्यायिक सदस्य /Judicial Member

Sd/-  
( जी. मंजुनाथ )  
( G.Manjunatha )  
लेखा सदस्य / Accountant Member

चेन्नई/Chennai,

दिनांक/Dated 18<sup>th</sup> August, 2021

DS

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. Appellant
2. Respondent
3. आयकर आयुक्त (अपील)/CIT(A)
4. आयकर आयुक्त/CIT
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF.