

**IN THE INCOME TAX APPELLATE TRIBUNAL
RAJKOT BENCH, RAJKOT**

**(BEFORE SHRI MAHAVIR PRASAD, JUDICIAL MEMBER
& SHRI AMARJIT SINGH, ACCOUNTANT MEMBER)**

[Through Virtual Court]

**ITA. No: 388/Rjt/2015
(Assessment Years: 2012-13)**

Dy. Commissioner of Income Tax, Circle-1, Jamnagar	M/s. Seabird Marine Service Pvt. Ltd., Plot No. 215-218, Venus Apptt., Opp. Cricket Bangalow, Jamnagar
(Appellant)	PAN No. AA ACT8776F (Respondent)

**Appellant by : Shri Om Prakash Singh, CIT/DR
Respondent by : Shri Kapil Sanghvi, A.R.**

(आदेश)/ORDER

Date of hearing : 11-08-2021
Date of Pronouncement : 24-08-2021

PER MAHAVIR PRASAD, J.M.

1. This appeal has been filed by the Revenue is directed against the order of the Commissioner of Income Tax (hereinafter called CIT(A)) order no. CIT(A)-

/Jam/291/2014-15 order dated 22/06/2015 arising out of assessment order dated 27.03.2015. Revenue has taken following grounds of appeal:

- 1) *Whether on facts and the circumstances of the case, the Ld. CIT(A) was justified in deleting the disallowance of deduction u/s. 80IA of the I.T. Act, 1961 made by the AO of Rs. 66,75,56,995/-.*
- 2) *Whether on facts and the circumstances of the case, the Ld. CIT(A) was justified in deleting the disallowance u/s. 14A of the I.T. Act, 1961 made by the A.O. of Rs. 62,16,627/-.*
- 3) *On the basis of the facts and circumstances of the case, the Ld. CIT(A) ought to have upheld the order of the Assessing Officer.*
- 4) *That the revenue craves leaves to add, amend, alter or withdraw any ground of appeal.*
- 5) *It is therefore prayed that the order of the Id. CIT(A) Jamnagar may kindly be set aside and that of Assessing Officer be restored.*

2. This is the second round before the Tribunal and earlier order dated 18/11/2019. Tribunal recalled the order on 18/11/2019 with regard to disallowance of u/s. 14A of the Act.
3. Brief facts of the case are that appellant is a private limited company having two Container Freight Stations at J N PT and at Mundra.
4. On verification of record, it is found that disallowance made by assessee u/s 14 A is not correct and assessee has not disallowed interest and expenses as provided under Rule 8D. The total interest expenditure incurred by the assessee is Rs. 10,65,362/- however, it has disallowed Rs. 6,99,607/- out of on total investment in Seabird Resort. And disallowance was worked out as under by the A.O.:

No.	Particulars	Amount
1	Total Interest expense incurred by assessee	10,65,362/-
2	Total investment as at 31.3.2012 excluding debentures as per schedule 9 of the balance sheet	140,59,17,458/-

3	Total investment as at 31.3.2011 excluding debentures as per schedule 9 of the balance sheet	90,81,56,650/-
4	Average Investment (2+3)/2	115,70,37,054/-
5	Total Assets as at 31.3.2012	321,00,66,423/-
6	Total assets as at 31.3.2011	250,40,85,955/-
7	Average assets (5+6)/2	285,70,76,189/-
8	Interest disallowance (1*4)/7	4,31,442/-
9	0.5 % of average investments	57,85,185/-
10	Total Disallowance u/s 14A	62,16,627/-
11	Already disallowed by assessee in return of income	6,99,607/-
12	Net disallowance	55,17,020/-

5. Against the said disallowance u/s. 14A, assessee preferred first statutory appeal before the Ld. CIT(A) who granted relief to the assessee.

6. Now revenue has come before us against the order of the Ld. CIT(A).

7. We have gone through the relevant record and impugned order. In this case, assessee has earned exempt dividend income of Rs. 12,16,465/- and himself has disallowed an amount of Rs. 6,99,607/- being interest expenditure stating that amount invested in some subsidiary/associate has gone out of the particular bank and therefore out of abundant caution, assessee has disallowed Rs. 6,99,607/-. Otherwise, it is submitted that there is no interest expenditure incurred. On perusal of the balance sheet of the company, it is apparent that company has share capital and free reserve of Rs. 278.68 Crores and investments are of Rs. 170.84 lakhs. Out of this investments as stated in note no 9 of the balance sheet the substantial sum have been invested in associate companies in preference shares and equity shares which are unlisted. Further sums are also invested in bonds and debentures whose income is chargeable to tax. Investments in mutual funds is also of Rs. 78 crores is also subject to tax at the time

of sale in case of FMP and other which assessee has offered for taxation in the computation of total income. In the assessment order, Ld. A.O. has merely brushed aside the claim of the assessee without pointing out any nexus between the funds disallowed. Working made by the A.O. of disallowance of interest is only Rs. 4,31,442/- whereas the assessee himself has disallowed 6,99,607/-. Therefore as assessee himself has disallowed interest of Rs. 6,99,607/- which is more than the A.O. has disallowed i.e. Rs. 4,31,442/-. In such case, disallowance of interest cannot be made u/s. 14A and we do not find any ambiguity in the order passed by the Ld. CIT(A).

8. In our considered opinion, Ld. CIT(A) has passed detailed and reasoned order after considering each and every factor of the case.
9. In the result, appeal filed by the Revenue is dismissed.

Order pronounced in Open Court on	24- 08- 2021
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Sd/-
(AMARJIT SINGH)
ACCOUNTANT MEMBER True Copy
Ahmedabad: Dated 24/08/2021

Sd/-
(MAHAVIR PRASAD)
JUDICIAL MEMBER

Rajesh

Copy of the Order forwarded to:-

1. The Appellant.
2. The Respondent.
3. The CIT (Appeals) –
4. The CIT concerned.
5. The DR., ITAT, Ahmedabad.
6. Guard File.

By ORDER

Deputy/Asstt.Registrar
ITAT,Ahmedabad