

आयकर अपीलीय अधिकरण “ज़ी” न्यायपीठ मुंबई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
“G” BENCH, MUMBAI

माननीय श्री विकास अवस्थी, न्यायिक सदस्य एवं
माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।
BEFORE HON’BLE SHRI VIKAS AWASTHY, JM AND
HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM
(Hearing through Video Conferencing Mode)

आयकर अपील सं./ I.T.A. No.4448/Mum/2019
(निर्धारण वर्ष / Assessment Year: 2014-15)

Star Chemicals (Bombay) Pvt. Ltd. 55/58, Jolly Maker Chambers No. 2, Nariman Point, Mumbai-400 021	बनाम/ Vs.	DCIT-3(3) 6 th floor, Aaykar Bhavan, Mumbai-400 020
स्थायीलेखासं ./जीआइआरसं ./PAN/GIR No. AAACS-7485-E		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

Assessee by	:	Shri Anil Thanawad– Ld. AR
Revenue by	:	Shri T. S. Khalsa– Ld. Sr. DR

सुनवाई की तारीख/ Date of Hearing	:	16/08/2021
घोषणा की तारीख / Date of Pronouncement	:	25/08/2021

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

1. The sole grievance of the assessee in captioned appeal for Assessment Year (AY) 2014-15 is disallowance u/s 14A. The assessment was framed by Ld. Assessing Officer (AO) u/s 143(3) on 30/06/2016 whereas impugned order was passed by learned Commissioner of Income-Tax (Appeals)-9, Mumbai [CIT(A)] on 18/06/2019 against which the assessee is in further appeal before us.

2. The disallowance u/s 14A stem from the fact that the assessee earned exempt income of Rs.77.09 Lacs which was in the shape of interest and dividend. The assessee also received share of profit of Rs.391.80 Lacs from a partnership concern which was also claimed exempt. In the computation of income, the assessee offered suo-moto disallowance of Rs.11.02 Lacs as certified by Tax Auditors. Though the assessee justified the disallowance, however, not convinced, Ld. AO applied Rule 8D and computed aggregate disallowance of Rs.30.31 Lacs which was nothing but indirect expense disallowance u/r 8D(2)(iii), being 0.5% of average investments. Accordingly, the differential of Rs.19.28 Lacs was further added to the income of the assessee while computing income under normal provisions as well as while computing Book-Profits u/s 115JB.

3. Upon further appeal, Ld. CIT(A), inter-alia, relying upon the decision of Special Bench of Delhi Tribunal in **ACIT V/s Vireet Investment (P) Ltd. (165 ITD 27)**, directed Ld. AO to examine the working of the assessee and compute the disallowance by considering only those investments which have yielded exempt income during the year. The Ld. CIT(A) also directed Ld. AO to exclude the disallowance from Book-Profits u/s 115JB. Still aggrieved, the assessee is in further appeal before us.

4. Upon due consideration of material facts, we find that the findings rendered in the impugned order are in accordance with settled legal position. The Ld. CIT(A) has already directed for exclusion of those investments which have not yielded any exempt income during the year. The Ld. AO has also been directed to examine the working of the assessee after providing opportunity of hearing. It is also evident that Ld.

CIT(A) has already directed Ld. AO to exclude the additional disallowance while computing Book-Profits u/s 115JB. Therefore, the order is in accordance with law which does not require any interference on our part. No further directions are required in the matter.

5. The appeal stands dismissed.

Order pronounced on 25th August, 2021.

Sd/-

(Vikas Awasthy)

न्यायिक सदस्य / **Judicial Member**

Sd/-

(Manoj Kumar Aggarwal)

लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 25/08/2021

Sr.PS, Dhananjay

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त(अपील) / The CIT(A)
4. आयकरआयुक्त/ CIT– concerned
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, मुंबई/ DR, ITAT, Mumbai
6. गार्डफाईल / Guard File

आदेशानुसार/ BY ORDER,

**उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकरअपीलीयअधिकरण, मुंबई / ITAT, Mumbai.**