

**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES "B": HYDERABAD
(THROUGH VIRTUAL CONFERENCE)**

**BEFORE SMT. P. MADHAVI DEVI, JUDICIAL MEMBER
AND
SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER**

ITA Nos. 2301 & 2302/H/2018 Assessment Year: 2014-15 & 2015-16		
Dy. Commissioner of Income-tax, Circle - 1(1), Hyderabad.	Vs.	Aquamall Water Solutions Ltd., Hyderabad. PAN - AADCA 6241M
(Appellant)		(Respondent)
Revenue by:		Shri Rohit Mujumdar
Assessee by:		Shri A.V. Raghuram
Date of hearing:		12/08/2021
Date of pronouncement:		30/08/2021

ORDER

PER L.P. SAHU, A.M.:

Both these appeals filed by the Revenue are directed against CIT(A) - 1, Hyderabad's separate orders dated 06/09/2018 for AYs 2014-15 and 2015-16 involving proceedings u/s 143(3) of the Income- Tax Act, 1961; in short "the Act".

2. In both the appeals, the revenue's grievance is that the CIT(A) erred in deleting the disallowance of expenditure made by the AY u/s 14A of the Act.

3. The facts as taken from AY 2014-15 are that during the assessment proceedings the AO noticed that the assessee had made investments in its subsidiary companies to the tune of Rs. 152,80,36,545/-. The company had capital of Rs. 4,00,01,600/- and reserves of Rs. 2,32,03,28,763/-. The borrowings during the year were Rs. 107,48,79,715/- by way of long term borrowings and short term borrowings. Further, the interest paid during the year was Rs. 8,80,35,300/-.

3.1 The AO observed that as per section 14A(1) of the I.T. Act, no deduction shall be allowed in respect of expenditure incurred by the assessee In relation to income which does not form part of the total income. As per 14A(2), if the Assessing Officer is not satisfied with the correctness of the claim of the assessee in respect of the expenditure in relation to the exempt income he may determine the amount of expenditure incurred in relation to such income which does not form part of the total income in accordance with the Rule 8D of the IT. Rules. The Assessing Officer show caused the assessee as to why the disallowance u/s.14A may not be made in this case. In response, the assessee company submitted that it had not received any

dividend income during the year as can be seen from the accounts. Where there is no exempt income earned in relevant assessment year, there could be no disallowance in terms of section 14A read with rule 8D. The assessee relied in the following cases:

I. Principal CIT Vs. IL & FS Energy Development Co. Ltd., (2017) 84 Taxmann.com 186 (Del) order dated 16.08.2017 in ITA No.520 of 2017.

II. Cheminvest Ltd Vs. CIT - 378 ITR 33 (Del)

III. CIT Faridabad Vs. Lakhani Marketing (2014) 272 CTR265 (P&H)

IV. Redington (India) Ltd Vs. Addl. CIT(2017) 392 ITR 633 (Mad).

V. CIT Vs. Shivam Motors Pvt. Ltd.(2014) 272 CTR 277 (Allahabad)

3.2 The AO referring to the CBDT Circular No. 5/2014, dated 11/02/2014, observed that the assessee had incurred interest expenditure of Rs. 8,80,35,300/-. Accordingly, applying rule 8D, the AO computed the disallowance of expenditure of Rs. 2,36,62,633/- u/s 14A and added the same to the total income of the assessee company.

4. When the assessee preferred an appeal before the CIT(A), the CIT(A) allowed the appeal of the assessee by deleting the disallowances made by the AO u/s 14A following the judgement of the Hon'ble Supreme Court in the case of CIT Vs. Chettinad Logistics (P) Ld., [2018] 95

taxmann.com 250 (SC), on which reliance placed by the assessee.

5. Aggrieved by the order of the CIT(A), the revenue is in appeal before the ITAT.

6. Before us, the ld. DR submitted that the AO has rightly made the disallowance u/s 14A as the assessee has incurred interest expenditure during the year and has made investments also.

7. On the other hand, the ld. AR relied on the order of the CIT(A).

8. We have considered the rival submissions and perused the material on record as well as gone through the orders of revenue authorities. On going through the financial statements of the assessee company, we observe that during the impugned AY, the assessee has not received any exempt income, therefore, the addition cannot be made u/s 14A. There are Catena of judgements of Hon'ble Tribunal that if there is no exempt income, no disallowance can be made u/s 14A of the Act. We, therefore, uphold the order of the CIT(A) and dismiss the grounds raised by the revenue on this issue.

9. As the issue in AY 2015-16 is materially identical to that of AY 2014-15, following the decision therein, we dismiss the appeal of the revenue.

10. In the result, both the appeals of the revenue are dismissed in above terms. A copy of this common order be placed in the respective case files.

Pronounced in the open court on 30th August, 2021.

Sd/-
(P. MADHAVI DEVI)
JUDICIAL MEMBER

Sd/-
(L. P. SAHU)
ACCOUNTANT MEMBER

Hyderabad, Dated: 30th August, 2021.

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Copy to :

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3	<i>CIT(A) - 1, Hyderabad.</i>
4	<i>Pr. CIT - 1, Hyderabad.</i>
5	<i>ITAT, DR, Hyderabad.</i>
6	<i>Guard File.</i>

S.No.	Details	Date
1	Draft dictated on	
2	Draft placed before author	
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5	Approved Draft comes to the Sr. PS/PS	
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8	Date on which the file goes to Head Clerk	
9	Date on which file goes to A.R.	
10	Date of Dispatch of order	