

**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES “B” : HYDERABAD
(THROUGH VIDEO CONFERENCE)**

**BEFORE SHRI S.S.GODARA, JUDICIAL MEMBER
AND
SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER**

I.T.A. No. 1602/HYD/2019

Assessment Year: 2016-17

DCIT, Circle-2(2),
HYDERABAD

Vs M/s.Telangana State Power
Generation Corporation
Limited,
HYDERABAD
[PAN: AAFCT0257Q]

(Appellant)

(Respondent)

For Revenue : Shri Y.V.S.T.Sai, CIT-DR

For Assessee : Shri M.Chandramouleswara Rao, AR

Date of Hearing : 23-09-2021

Date of Pronouncement : 06-10-2021

ORDER

PER S.S.GODARA, J.M. :

This Revenue's appeal for AY.2016-17 arises from the CIT(A)-2, Hyderabad's order dated 21-08-2019 passed in case No.10297/2018-19/CIT(A)-2, in proceedings u/s.143(3) of the Income Tax Act, 1961 [in short, 'the Act'].

Heard both the parties. Case file perused.

2. The Revenue has raised the following substantive grounds in the instant appeal:

“1.The CIT(A) has ignored the findings of the AO brought out in the assessment order that provision of Sec.14A is clearly applicable in the case of the assessee.

2.The CIT(A) erred in not noticing the provisions of Sec.14A which start with “Expenditure incurred in relation to income not includible in total income” and not appreciating that substituted Rule 8(D)(2)(ii) and

erstwhile Rule 8D(2)(iii) envisages disallowance on average of investment, income from which does not or shall not form part of total income.

3. The CIT(A) has erred in ignoring CBDT circular No.5/2014 dated 11.02.2014 which has clarified unambiguously the intent of the legislature, purpose and applicability of Sec.14A.

4. Any other ground that be urged at the time of hearing.”

3. At the outset, learned authorised representative submitted that since there is no dividend income earned in the relevant previous year the CIT(A)'s order deleting the impugned Section 14A disallowance r.w. rule 8D disallowance may be upheld. In this connection, he relied on the following case law:

- i. CIT Vs. Chettinad Logistics Pvt. Ltd., [80 taxmann.com 221] (Madras);
- ii. CIT Vs. Corrttech Energy Pvt. Ltd., [223 Taxman 130] (Guj);
- iii. Cheminvest Ltd., Vs. CIT (2015) [378 ITR 33] (Del)

Their lordships hold that Section 14A read with Rule 8D applies only in relation to an assessee's exempt income and not otherwise. It is an admitted fact that the assessee has not derived any exempt income in the relevant previous year. We therefore sustain the order of CIT(A) under challenge for this precise reason alone.

4. This Revenue's appeal is dismissed in above terms.

Order pronounced in the open court on 6th October, 2021

Sd/-
(LAXMI PRASAD SAHU)
ACCOUNTANT MEMBER

Hyderabad, Dated: 06-10-2021

TNMM

Sd/-
(S.S.GODARA)
JUDICIAL MEMBER

Copy to :

1.The DCIT, Circle-2(2), Hyderabad.

2.M/s.Telangana State Power Generation Corporation Limited, 3rd Floor, A-Block, Vidyut Soudha, Khairatabad, Hyderabad.

3.CIT(Appeals)-2, Hyderabad.

4.Pr.CIT-2, Hyderabad.

5.D.R. ITAT, Hyderabad.

6.Guard File.