

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

**BEFORE SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER AND
SHRI PAWAN SINGH, JUDICIAL MEMBER**

**ITA No.93/RPR/2016
Assessment Year: 2012-13**

M/s Goyal Sales Pvt. Ltd.,
Gandhi Chowk,
Neora,
Raipur (C.G.).
[PAN – AACG 8486 D]
(Appellant)

vs. The Dy. Commissioner of Income
Tax 1(2), Raipur (C.G.).

(Respondent)

Appellant by : Written Submission
Respondent by : Shri R.K. Baral, D.R.

Date of hearing : 11.08.2021
Date of pronouncement : 21.10.2021

ORDER

PER PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER :

The captioned appeal has been filed at the instance of the assessee against the order of the Commissioner of Income Tax (Appeals)-I (CIT(A) in short), Raipur dated 04.02.2016 arising out of order passed by the Assessing Officer (A.O.) under section 143(3) of the Income Tax Act, 1961 (the Act in short) dated 13.11.2014 for the Assessment Year (A.Y.) 2012-13.

2. As per the grounds of appeal, the assessee has challenged the disallowance of Rs.6,83,886/- by the A.O. taking the shelter of section 14A read with Rule 8D of the Income Tax Rules, 1962 which is alleged to be wrongly sustained by the CIT(A).

3. None appeared on behalf of the assessee at the time of hearing.

4. The learned Departmental Representative relied upon the orders of the lower authorities.

5. We have carefully considered the rival submissions. It is noticed that the assessee has not derived any exempt income during the year which fact has been reported consistently before all authorities. The question thus arise for determination is whether section 14A is applicable when the assessee has not actually received any exempt income during the year from assets capable of yielding taxable income. In this regard, we take note of the CBDT Circular No.5/2014 dated 11.02.2014 which seeks to emphasize that all expenses pertaining to an exempt income is required to be disallowed notwithstanding the fact that no corresponding tax free income has been earned during the financial year. However, despite the circular, various Courts have held that Section 14A disallowance could not be kicked in where there was no exempt income earned by the assessee. Hon'ble Delhi High Court in PCIT vs. IL&FS Energy Development Company Limited (2017) 84 Taxmann. Com 186 (Delhi) and the Hon'ble Madras High Court in CIT vs. Chettinad Logistics (P.) Limited (2017) 80 taxmann.com 221 (Madras) (SLP dismissed in CIT vs. Chettinad Logistics (P.) Limited (2018) 95 taxmann.com 250 (SC) have expressed a clear disagreement with CBDT Circular and held that where there is no exempt income in relevant year there cannot be a disallowance of expenditure under section 14A of the Act. Similar proposition has been laid down by the Hon'ble Gujarat High Court in the case of Corrttech Energy (P.) Limited (2014) 45 taxmann.com 116 (Guj.) and Pr.CIT vs. India Gelatine and Chemicals Limited (2016) 66 taxmann.com 356 (Guj.). In view of the judicial fiat available in this regard, we do not find any infirmity in the order of the CIT(A). Therefore, we concur with the action of the CIT(A) and decline to interfere.

6. In the result, appeal of the assessee is allowed.

PRONOUNCED ON 21.10.2021 as per Rule 34(4) of the Income Tax Appellate Tribunal Rules,1963.

Sd/-
(PAWAN SINGH)
Judicial Member

Sd/-
(PRADIP KUMAR KEDIA)
Accountant Member

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Copies to:

- (1) *The appellant*
- (2) *The respondent*
- (3) *CIT*
- (4) *CIT(A)*
- (5) *Departmental Representative*
- (6) *Guard File*

By order

*Assistant Registrar
Income Tax Appellate Tribunal
Raipur Bench, Raipur*