

**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**

ITA No.	A.Y.	Appellant	Respondent
438/Hyd/2020	2012-13	Medha Servo Drives Pvt. Ltd., Hyderabad [PAN: AABCM3917A]	DCIT, Central Circle-1(4), Hyderabad
439/Hyd/2020	2014-15		
440/Hyd/2020	2014-15		

For Assessee : Shri V.Siva Kumar, AR
For Revenue : Shri Y.V.S.T.Sai, CIT-DR

Date of Hearing : 23-09-2021
Date of Pronouncement : 22-10-2021

ORDER

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

These assessee's three appeals ITA Nos.438, 439 & 440/Hyd/2020 arise against the CIT(A)-11, Hyderabad's separate orders; dated 25-02-2020 passed in case Nos.10074, 10019 & 10076 / 2019-20 / CIT(A)-11 / Hyd / 2019-20, involving proceedings u/s.143(3) r.w.s.153A in AY.2012-13 and u/s.143(3) r.w.s.263 and u/s.143(3) r.w.s.153A of the Income Tax Act, 1961 [in short, 'the Act'] in the latter twin cases pertaining to AY.2014-15; respectively.

Heard both the parties. Case files perused.

2. We notice at the outset with the able assistance of both the parties that the assessee's identical sole substantive grievance herein seeks to reverse both the lower authorities' action making Section 14A r.w.Rule 8D disallowance of Rs.6,82,685/- in AY.2012-13 and Rs.9,61,911/- each in latter twin appeals for AY.2014-15; respectively.

3. Suffice to say, it transpires at the outset that the instant identical issue is no more *res integra* in all these cases for the precise reason that the Assessing Officer's regular assessment in AY.2012-13 framed on 31-03-2015 had already made the very disallowance which is an instance of double addition therefore. We further observe that the CIT(A)'s order in AY.2012-13's appeal ITA No.438/Hyd/2020 has not adjudicated the instant issue on merits. We therefore hold that the impugned addition made in Section 143(3) r.w.s.153A assessment is not liable to be sustained since not based on any incriminating material and the same had already been made in Section 143(3) assessment. We therefore accept the assessee's grievance herein. Its former appeal ITA No.438/Hyd/2020 succeeds therefore.

4. The outcome is no different in assessee's latter twin appeal ITA Nos.439 & 440/Hyd/2020 pertaining to AY.2014-15 as well since this tribunal's co-ordinate bench decision in its C.O.No.23/Hyd/2018 filed in Revenue's appeal No.655/2018 involving Section 143(3) assessment challenging the very disallowance stood accepted on the ground that it had not derived any exempt income. We therefore adopt the

very precise reason herein as well to delete the impugned disallowance in light of 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)

The impugned disallowance of Rs.9,61,911/- each in both these consequential round appeals stands deleted therefore. These main appeals ITA Nos.439 & 440/Hyd/2020 are accepted.

The very outcome of to follow regarding applicability of Section 115JB MAT provision(s) *qua* the impugned disallowance as well.

5. These assessee's three appeals are allowed in above terms. A copy of this common order be placed in the respective case files.

Order pronounced in the open court on 22nd October, 2021

Sd/-
(LAXMI PRASAD SAHU)
ACCOUNTANT MEMBER

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

Hyderabad,
Dated: 22-10-2021

Copy to :

1. Medha Servo Drives Pvt. Ltd., P-4/5B, IDA Nacharam, Hyderabad.

2. The DCIT, Central Circle-1(4), Hyderabad.

3. The CIT(Appeals)-11, Hyderabad.

4. The Pr.CIT-Central, Hyderabad.

5. D.R. ITAT, Hyderabad.

6. Guard File.