

आयकर अपीलिय अधिकरण "ए" न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH, PUNE

BEFORE SHRI R.S.SYAL, VICE PRESIDENT AND
SHRI CHANDRA MOHAN GARG, JUDICIAL MEMBER

आयकर अपील सं. / ITA No. 216/PUN/2018

निर्धारण वर्ष / Assessment Year : 2012-13

Renuka Auto Components India Private Limited
Plot No.563, Sector-25,
PCNTDA, Nigdi,
Pune-411 044
PAN : AADCR5691J

.....अपीलार्थी / Appellant

बनाम / V/s.

The Deputy Commissioner of Income Tax,
Circle-10, Pune.

.....प्रत्यर्थी / Respondent

Assessee by : Shri D.R. Barve

Revenue by : Shri S.P Walimbe

सुनवाई की तारीख / Date of Hearing : 09.11.2021

घोषणा की तारीख / Date of Pronouncement : 10.11.2021

आदेश / ORDER

PER CHANDRA MOHAN GARG JM:

This appeal filed by the assessee is directed against the order of the Ld. CIT(Appeals)-6, Pune dated 10.10.2017 for the assessment year 2012-13 as per the following grounds of appeal:

"1) The learned CIT(A) erred in confirming the disallowance of Rs.75,500/- related to the provisions of section 14A read with Rule 8D.

2) The learned CIT(A) erred in ignoring the facts that all the investments by the assessee company were from own funds generated during the year.

3) *The learned CIT(A) has erred in ignoring the facts that the investment in unlisted group of company is a strategic investment, made out of business exigencies and not for earning dividend income. The investment remained unchanged till the year end and the appellant has not incurred any expenditure for maintaining the portfolio.*

4) *The learned CIT(A) has erred in ignoring the fact that during the year under consideration, the appellant company has not earned any income which was exempted from tax.*

5) *The learned CIT(A) has erred in ignoring that only those investments in respect of which dividend or exempt income has been earned can only be considered while computing the disallowance u/s.14A r.w.r.8D.*

6) *The learned CIT(A) erred in not following the ratio of the High Court/ITAT decisions in the case of :*

- a) *CIT Vs. HDFC Bank Ltd. (2014) 366 ITR 505 (Bom.)*
- b) *CIT Vs. Reliance Utilities and Power Ltd. (2009) 313 ITR 340 (Bom.)*
- c) *CIT Vs. Delite Enterprises, ITA No.110/2009 (Bom.)(HC)*

2. The brief facts in this case are that the assessee company is engaged in the business of manufacturing of Auto parts, CED coating, powder coating, stickers, Tapes of different kinds etc. The assessee had filed return of income on 28.09.2012 declaring total income at Rs.3,19,99,693/-. The assessment was completed u/s.143(3) of the Income Tax Act, 1961 (in short 'the Act') on 26.03.2015 at a total income of Rs.3,21,75,240/- and consequently, the Assessing Officer made following additions:

i. Disallowance misc. expenses	Rs.50,000/-
ii. Disallowance of traveling, vehicle & telephone expenses	Rs.50,000/-
iii. Disallowance u/s.14A	Rs.75,500/-

3. At the time of hearing, the Ld. Authorized Representative (AR) submitted that all the investments by the assessee company were from own funds generated during the year. He further submitted that the investment remained unchanged till the year end and the assessee has not incurred any expenditure for maintaining the portfolio and during the year under

consideration, the assessee company has not earned any income which was exempted from tax. The Ld. AR also submitted that only those investments in respect of which dividend or exempt income has been earned can only be considered while computing the disallowance u/s.14A r.w.r 8D. In this regard, the Ld. AR has placed strong reliance on the following decisions :

- a) *CIT Vs. HDFC Bank Ltd. (2014) 366 ITR 505 (Bom.)*
- b) *CIT Vs. Reliance Utilities and Power Ltd. (2009) 313 ITR 340 (Bom.)*
- c) *CIT Vs. Delite Enterprises, ITA No.110/2009 (Bom.)(HC)*

4. The Ld. CIT-DR has supported the findings recorded by the Sub-ordinate Authorities on this count.

5. On careful consideration of the submissions above, we find that the Ld. CIT(Appeals) vide Para 4.1 observed that during the year, the assessee made an investment of Rs.1,50,00,000/- and thus, the total investment made was of Rs.1,51,10,000/- and there was no dividend received from these investments and the assessee claimed that no expenditure has been incurred towards these investments. Further, we observe that the assessee company has made the strategic investment out of its own funds and the same is evident from the audited financial statements of the company which are placed at Page 6 to 12 of the paper book for the year under consideration. Further, the audited cash flow statement of the assessee company for the year under consideration also proves that the investment made is out of cash generated from operating activities of the assessee company.

6. Further, we observe the Hon'ble Jurisdictional High Court of Bombay in the case of **CIT Vs. HDFC Bank Limited (supra.)** following the decision in the case of **Commissioner of Income Tax Vs. Reliance Utilities and Power**

Ltd. (supra.) has observed that “*if the assessee’s capital and reserves were higher than the investment made in securities then it would be presumed that the investment was made out of interest free funds available with the assessee and needs no disallowance u/s.14A of the Act.*” Further, the Hon’ble Jurisdictional High Court in the case of **CIT Vs. Delite Enterprises (supra.)** has held that “*no disallowance u/s.14A of the Act should be made for a year in absence of exempt income.*”

7. In view of the above facts and circumstances, we are of the opinion that the intention of Section 14A of the Act is to disallow expenditure incurred in relation to income which does not forming part of total income (i.e. exempt income) and therefore, unless there is exempt income in a particular year, Section 14A should not be triggered for that year. Therefore, respectfully following the judicial precedents referred above, we are of the view that since the assessee company has not received any exempt income, hence, no disallowance u/s.14A of the Act is warranted. Accordingly, **grounds raised by the assessee are allowed.**

8. In the result, **appeal of the assessee is allowed.**

Order pronounced on 10th day of November, 2021.

Sd/-
R.S.SYAL
VICE PRESIDENT

Sd/-
CHANDRA MOHAN GARG
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 10th November, 2021.

SB

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(Appeals)-6, Pune.
4. The Pr. CIT-5, Pune.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "ए" बेंच,
पुणे / DR, ITAT, "A" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

निजी सचिव / Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.

		Date	
1	Draft dictated on	09.11.2021	Sr.PS/PS
2	Draft placed before author	09.11.2021	Sr.PS/PS
3	Draft proposed and placed before the second Member		JM/AM
4	Draft discussed/approved by second Member		AM/JM
5	Approved draft comes to the Sr. PS/PS		Sr.PS/PS
6	Kept for pronouncement on		Sr.PS/PS
7	Date of uploading of order		Sr.PS/PS
8	File sent to Bench Clerk		Sr.PS/PS
9	Date on which the file goes to the Head Clerk		
10	Date on which file goes to the A.R		
11	Date of dispatch of order		