

आयकर अपीलिय अधिकरण
मुंबई पीठ "एच", मुंबई
श्री विकास अवस्थी, न्यायिक सदस्य एवं
श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष
IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "H", MUMBAI
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER &
SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER
आअसं. 1126/मुं/2020 (नि.व.2009-10)
ITA NO.1126/MUM/2020 (A.Y.2009-10)

Kotak Securities Limited.

27, BKC, Bandra Kurla Complex,

Bandra East,

Mumbai-400051.

PAN: **AAACK3436F**

..... अपीलार्थी /Appellant

बनाम Vs.

ACIT Range-4(3),

Room No. 635, 6th Floor,

Aayakar Bhavan, M.K. Road,

Mumbai-400020

..... प्रतिवादी/Respondent

अपीलार्थी द्वारा/ Appellant by : Sh. Farook Irani

प्रतिवादी द्वारा/Respondent by : Sh. Ashish Heliwal

सुनवाई की तिथि/ Date of hearing : 25/08/2021

घोषणा की तिथि/ Date of pronouncement : 04/10/2021

आदेश/ ORDER

PER VIKAS AWASTHY, J.M:

This appeal by the assessee is directed against the order of Commissioner of Income Tax (Appeals)-9, Mumbai [hereinafter referred to as 'the Act'] dated 06.12.2019 for the Assessment Year (AY) 2009-10.

2. Sh. Farook Irani appearing on behalf of the assessee submitted that the short ground in the present appeal is against disallowance made under section 14A read with Rule 8D of the Income Tax Act, 1961 [hereinafter referred to as 'the Act']. The Id. counsel for the assessee submitted that during the period relevant to AY under appeal, the assessee has earned dividend income exempt from tax Rs. 20,14,878/-. The assessee suo-moto made disallowance of Rs. 22,43,198/- for earning exempt income. The AO re-computed disallowance of Rs. 2,18,76,510/- under section 14A read with Rule 8D of the Act.

Aggrieved by disallowance computed by the AO, the assessee carried the issue in appeal before the CIT(A). The CIT(A) directed the AO to re-work disallowance under section 14A read with Rule 8D of the Act by considering average value of only those investments that have yielded exempt income during the relevant period. Thus, part relief was allowed by the First Appellate Authority. The Id. counsel submitted that the assessee is now seeking to restrict disallowance under section 14A read with Rule 8D to the extent exempt income earned.

3. Sh. Ashish Heliwal representing the Department vehemently defended the impugned order. The Id. DR submitted that the CIT(A) has granted relief to the assessee in accordance with settled law. The assessee has raised afresh plea before the Tribunal in restricting disallowance to the extent of exempt income earned.

4. Both sides head, orders of the authorities below examined. It is an undisputed fact that the assessee has earned income exempt from tax to the tune of Rs. 20,14,878/- during the period relevant to AY under appeal. The assessee has made suo-moto disallowance of Rs. 22,43,198/-. The disallowance

made by the AO has been rejected by the AO and has thereafter re-worked disallowance under section 14A read with Rule 8D enhancing the disallowance by Rs. 1,96,33,312/-.

5. It is no more res integra that disallowance under section 14A read with Rule 8D cannot exceed the exempt income earned by the assessee [*Re: PCIT Vs. State Bank of Patiala, 99 taxmann.com 286 (SC)*]. Thus, in view of the well-settled law, the AO is directed to restrict disallowance under section 14A to the extent exempt income earned by the assessee during the relevant period.

6. Ground No.2 raised by the assessee in appeal is thus, allowed.

7. The Id. counsel for the assessee stated at Bar that he is not pressing ground no.1. In view of the statement made by Id. counsel for the assessee, ground no.1 is dismissed as not pressed.

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

Order pronounced in the open court on **Monday**, the 04th day of October, 2021.

Sd/-

(MANOJ KUMAR AGGARWAL)

लेखा सदस्य / ACCOUNTANT MEMBER

मुंबई/Mumbai, दिनांक/Dated: 04/10/2021

SK, PS

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य / JUDICIAL MEMBER

प्रतिलिपि अग्रेषितCopy of the Order forwarded to :

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकर आयुक्त(अ)/ The CIT(A)-
4. आयकर आयुक्त CIT
5. विभागीय प्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT,
Mumbai
6. गार्ड फाइल/Guard file.

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BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai