

**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. 88/HYD/2021
Assessment Year: 2017-18

The Asst. Commissioner of Income Tax, Circle-3(1), HYDERABAD	Vs	M/s.Sujana Universal Industries Limited, HYDERABAD [PAN: AACCS8630H]
(Appellant)		(Respondent)

For Revenue : Shri Rohit Mujumdar, DR
For Assessee : Shri P.Murali Mohana Rao, AR

Date of Hearing : 26-10-2021
Date of Pronouncement : 18-11-2021

ORDER

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

This Revenue's appeal for AY.2017-18 arises from the CIT(A)-3, Hyderabad's order dated 03-09-2020 passed in case No.10663/2019-20/B3/CIT(A)-3, in proceedings u/s.143(3) of the Income Tax Act, 1961 [in short, 'the Act'].

Heard both the parties. Case file perused.

2. It transpires at the outset that this assessee's instant appeal suffers from fifty days' delay stated to be attributable to the reason(s) beyond its control as per condonation

petition/affidavit. No rebuttal has come from the departmental side. The impugned delay is condoned therefore.

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

“1.The Ld.CIT(A) erred in holding that provisions of section 14A are not attracted when assessee has not earned any exempt income during the year.

2.The Ld.CIT(A) erred in deleting the disallowance made by AO under Rule 8D(2)(iii) of Income Tax rules by ignoring CBDT’s Circular 5/2014 which states that the AO may consider disallowance u/s.14A even if no exempt income was claimed in the particular year. In view of the above, the disallowance of Rs.2,42,64,032/- made by the AO u/s.14A of the Act read with rule 8D may be sustained.

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

4. 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.

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

Order pronounced in the open court on 18th November, 2021

Sd/-
(LAXMI PRASAD SAHU)
ACCOUNTANT MEMBER

Hyderabad,
Dated: 18-11-2021

TNMM

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

Copy to :

1.The Asst.Commissioner of Income Tax, Circle-3(1), Hyderabad.

2.M/s.Sujana Universal Industries Limited, Plot No.5A, Vengal Rao Nagar, Hyderabad.

3.CIT(Appeals)-3, Hyderabad.

4.Pr.CIT-3, Hyderabad.

5.D.R. ITAT, Hyderabad.

6.Guard File.