

IN THE INCOME TAX APPELLATE TRIBUNAL "B"
(Virtual Court Hearing) BENCH KOLKATA

Before Shri Sanjay Garg, Judicial Member and Shri Rajesh Kumar, Accountant Member

I.T.A. No.15/Kol/2021
Assessment Year: 2015-16

DCIT, Circle-4(1), Kolkata.....Appellant

vs.

M/s Asharam Leasing And Finance (P) Ltd.....Respondent
CF-361, Salt Lake City, Sector-1,
Kolkata-700064.
[PAN: AACCA1516G]

Appearances by:

None appeared on behalf of the appellant.

Smt. Ranu Biswas, Addl. CIT-DR, appeared on behalf of the Respondent.

Date of concluding the hearing : December 09, 2021

Date of pronouncing the order : December 09, 2021

Hearing through Video Conferencing

ORDER

Per Sanjay Garg, Judicial Member:

The present appeal has been preferred by the Revenue against the order dated 03.09.2019 of the Commissioner of Income Tax (Appeals)-2, Kolkata [hereinafter referred to as 'CIT(A)'] passed u/s 250 of the Income Tax Act (hereinafter referred to as the 'Act'). The Revenue in this appeal has taken the following grounds of appeal:

"1. For the facts and circumstances of the case, Ld. CIT(A) has erred in law and in facts in deleting the disallowance u/s 14A of Rs.3,50,07,137/- without considering the facts of the case.

2. That the appellant craves leave to add to and/or alter, amend, modify or rescind the grounds hereinabove before of hearing of this appeal."

2. No one has put in appearance on behalf of the assessee despite notice. Therefore, we proceed to adjudicate the present appeal after hearing the Id. DR.

3. At the outset, it is noticed that the appeal filed by the Revenue is time-barred by 42 days. A separate application for condonation of the said delay has been filed, wherein reasons for the delay in filing this appeal have been mentioned. Considering the above reasons, we condone the delay.

4. The only issue in this appeal raised by the Revenue is against the action of the Ld. CIT(A) in deleting the disallowance made by the Assessing Officer in respect of notional expenses incurred on earning of tax exempt income u/s 14A of the Act.

5. A perusal of the impugned order of the Ld. CIT(A) reveals that the CIT(A) has deleted the addition so made by the Assessing Officer observing that section 14A cannot be invoked where no exempt income was earned by the assessee during the year. The LD. CIT(A) in this respect has relied upon various decisions of the Hon'ble High Courts of the country.

6. We find that the issue is now squarely covered by the various decisions of the High Courts in favour of the assessee viz. CIT, Faridabad vs. Lakhani Marketing Inc.' 226 Taxman 45 (P&H) , 'CIT vs. Winsome Textiles (2009) 319 ITR 33(Delhi, Corrttech Energy P Ltd. (2014) 45 Taxman.com 116 (Gujarat High Court), CIT vs. M/s Shivam Motors (P) Ltd. (2014) 272 CTR (All) 277 including the decision of coordinate bench in the case of REI Agro Ltd. vs. DCIT 144 ITD 141 (Kol) as upheld in Hon'ble Jurisdictional High Court in G. A. No. 3581 of 2013. In all the above referred to case laws, the Hon'ble High Courts have been unanimous to hold that no disallowance is attracted u/s 14A of the Act in case the assessee has not earned any income not forming part of the total income.

The Ld. DR could not point out any decision contrary to the above settled proposition of law. In view of this, there is no merit in the appeal of the Revenue and the same is accordingly dismissed.

7. In the result, the appeal of the Revenue stands dismissed.

Kolkata, the 9th December, 2021.

Sd/-
[Rajesh Kumar]
Accountant Member

Sd/-
[Sanjay Garg]
Judicial Member

Dated: 09.12.2021.

RS

Copy of the order forwarded to:

1. DCIT, Circle-4(1), Kolkata
2. M/s Asharam Leasing And Finance (P) Ltd
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Sr.PS/D.D.O, Kolkata Benches