

**आयकर अपीलीय अधिकरण 'बी' न्यायपीठ चेन्नई में।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**"B" BENCH, CHENNAI**

**माननीय श्री वी. दुर्गा राव, न्यायिक सदस्य एवं**  
**माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।**  
**BEFORE HON'BLE SHRI V. DURGA RAO, JUDICIAL MEMBER AND**  
**HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM**

आयकर अपील सं./ ITA No.840/Chny/2019  
(निर्धारण वर्ष / Assessment Year: 2012-13)

M/s.TVS Logistics Services Ltd. 7B, West Veli Street, TVS Building, Madurai-625 001	बनाम/ Vs.	DCIT-Corporate Circle-2, Madurai-625 002.
स्थायी लेखा सं./जीआइ आर सं./PAN/GIR No. AACCT-1412-E		
(पीलार्थी/Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थी की ओरसे/ Appellant by	:	Shri M.Viswanath (CA)- Ld. AR
प्रत्यर्थी की ओरसे/Respondent by	:	Shri D.V.Subba Rao (Addl.CIT)-Ld. DR

सुनवाई की तारीख/ Date of Hearing	:	29/11/2021
घोषणा की तारीख / Date of Pronouncement	:	07/12/2021

**आदेश / ORDER**

**Manoj Kumar Aggarwal (Accountant Member)**

1. Aforesaid appeal is a recalled matter for the limited purpose of adjudication of ground no.1 since the appeal was initially disposed-off vide order dated 03/01/2020. However, the assessee preferred miscellaneous petition against the same which was allowed in MP No.46/CHNY/2020 for the limited purpose of adjudication of ground

relating to disallowance u/s 14A read with Rule 8D. Accordingly, the appeal has been placed before us for adjudication of this issue.

2. Having heard rival submissions and after going through the orders of lower authorities, our adjudication would be as given in succeeding paragraphs.

3. The assessee being resident corporate assessee is stated to be engaged in providing logistic services. Since the assessee had made investments and it had borrowings also, Ld. AO opined that the disallowance u/s 14A would be attracted. The assessee's claim that it did not incur any expenditure to earn the exempt income was not backed up by any documentary evidences. Therefore, applying Rule 8D, Ld. AO worked out aggregate disallowance for Rs.131.78 Lacs which was interest disallowance u/r 8D(2)(ii) for Rs.120.08 Lacs and indirect expense disallowance u/r 8D(2)(iii) for Rs.11.70 Lacs. Upon further appeal, Ld. CIT(A) observed that Ld. AO had recorded his satisfaction with respect to the accounts of the assessee and the disallowance was justified in terms of various judicial decisions as enumerated in the impugned order. Aggrieved, the assessee is in further appeal before us.

4. The assessee, in its submissions dated 27/12/2019, has inter-alia submitted that no borrowed funds have been used to make investments and therefore, interest disallowance is not justified. The assessee has also submitted that it has earned dividend income of Rs.35.99 Lacs during the year whereas the disallowance as made by lower authorities has been computed as Rs.131.78 Lacs which is unjustified. The assessee, in the alternative, has computed disallowance of Rs.3.34 Lacs by considering those investments which have yielded exempt income during the year. The Ld. AR has also raised a plea that no satisfaction

has been recorded by Ld. AO before applying Rule 8D and therefore, the application of Rule 8D was not in accordance with law.

5. We find that the assessee has earned dividend income of Rs.35.99 Lacs during the year which is evident from Note No.2.20 of assessee's financial statements as placed on record. It could also be seen that the assessee has not offered any suo-moto disallowance in its computation of income and therefore, considering the fact that the assessee has made investments during the year, Ld. AO has computed disallowance as per Rule 8D. The Ld. AO, in the assessment order, has already observed that total borrowing exceeds the reserves and surplus. Further, the assessee has not maintained separate accounts to enable computation of disallowance. It has further been observed that investment decisions would entail efforts by key managerial personnel and would also require incurrence of administrative expenditure. These observations, in our opinion, reflect the opinion of Ld. AO having regards to the accounts of the assessee and it would not be correct to say that Ld. AO has straightway proceeded to apply Rule 8D. The plea raised by Ld. AR could not be accepted.

6. Having said so, it is settled legal position that the disallowance u/s 14A is not to exceed exempt income and the disallowance has to be computed by considering only those investments which have yielded exempt income during the year. As per assessee's alternative computations, it has earned dividend income only from TVS Dynamic Global Freight Services Ltd. Further, certain interest has already been disallowed by the assessee in the computation of income and therefore, the same is not to be considered again for the purpose of computation of disallowance u/r 8D. It is also settled position that if assessee's own

funds exceeds the investment then unless nexus of borrowed funds vis-à-vis investments is established by Ld. AO, it could be presumed that the investments were sourced out of owned funds. Therefore, finding strength in all these arguments, we direct Ld. AO to verify the alternative disallowance of Rs.3.34 Lacs as computed by the assessee and restrict the disallowance to that extent. Further, if the investments have been sourced out of own funds then no interest disallowance would be called for. The matter stand restored back to the file of Ld. AO on these lines. The assessee is directed to provide requisite details and computations. The ground stand allowed for statistical purposes.

7. The appeal stand partly allowed for statistical purposes.

*Order pronounced on 07<sup>th</sup> December, 2021*

**Sd/-**

**(V.Durga Rao)**

न्यायिक सदस्य / **Judicial Member**

**Sd/-**

**(Manoj Kumar Aggarwal)**

लेखा सदस्य / **Accountant Member**

चेन्नई Chennai; दिनांक Dated : 07/12/2021

TLN

**आदेश की प्रतिलिपि □ ग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त(अपील) / The CIT(A)
4. आयकर आयुक्त/ CIT– concerned
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, चेन्नई / DR, ITAT, Chennai
6. गार्ड फाईल / Guard File

**आदेशानुसार/ BY ORDER,**

**उप/सहायक पंजीकार (Dy./Asstt.Registrar)  
आयकरअपीलीयअधिकरण, चेन्नई / ITAT, Chennai**