

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "A", PUNE – VIRTUAL COURT

BEFORE SHRI R.S. SYAL, VICE PRESIDENT AND
SHRI S.S. VISWANETHRA RAVI, JUDICIAL MEMBER

ITA No. 1663/PUN/2018

निर्धारण वर्ष / Assessment Year : 2015-16

Deccan Mechanical & Chemical Industries Pvt. Ltd., Khandelwal Jain & Associates, Alankar Cinema Building, Ist Floor, Above United Bank, Pune 411 001 PAN : AAACD7365G	Vs.	DCIT, Circle-8, Pune
Appellant		Respondent

Assessee by None
Revenue by Shri S.P. Walimbe

Date of hearing 18-01-2022
Date of pronouncement 18-01-2022

आदेश / ORDER

PER R.S.SYAL, VP :

This appeal by the assessee is directed against the order passed by the CIT(A) on 03-08-2018 in relation to the assessment year 2015-16.

2. The only issue raised in this appeal is against the confirmation of disallowance of Rs.1,59,430/- made by the Assessing Officer (AO) u/s.14A of the Income-tax Act, 1961 read with Rule 8D.

3. Briefly stated, the facts of the case are that the assessee earned dividend income of Rs.2,24,707/- which was claimed as exempt. No disallowance u/s.14A was offered for taxation. On being called upon to explain the reason, the assessee submitted that total investments in shares yielding said dividend income was to the tune of Rs.98,45,264/- and at the same time the total interest free funds available with the company by way of share capital and reserves and surplus amounted to Rs.58.16 crore. Not convinced, the AO computed the disallowance under Rule 8D at Rs.1,59,430/-, being, one half of the average value of investments. The Id. CIT(A) sustained the addition by observing that the presumption of investments financed by own funds does not stand true in this case. It was still further opined that after the insertion of Rule 8D from 01-04-2008, the earlier decisions granting relief on the question of having shareholders funds at more than the investments made, did not hold good.

4. We have heard the Id. DR and perused the relevant material on record. There is no appearance from the sides of the assessee despite notice. Due to smallness of the issue, we

are, proceeding to dispose of the appeal *ex parte qua* the assessee. It is found as an admitted position that investments made by the assessee yielding exempt income amounted to Rs.98.45 lakh. It is also equally admitted that the shareholders' fund of the assessee stood at Rs.58.16 crore.

5. The Hon'ble Bombay High Court in *CIT vs. Reliance Utilities and Power Ltd. (2009) 313 ITR 340 (Bom)*, has held that where an assessee possessed sufficient interest free funds of its own which were generated in the course of relevant financial year, apart from substantial shareholders' funds, presumption gets established that the investments in sister concerns were made by the assessee out of interest free funds and, therefore, no part of interest on borrowings can be disallowed on the basis that the investments were made out of interest bearing funds. In reaching this conclusion, the Hon'ble High Court relied on the judgment of the Hon'ble Supreme Court in the case of *East India Pharmaceutical Works Ltd. Vs. CIT (1997) 224 ITR 627 (SC)*. Similar view has been taken by the Hon'ble Dehi High Court in *CIT vs. Tin Box Company (2003) 260 ITR 637 (Del)*, holding that when the

capital and interest free unsecured loan with the assessee far exceeded the interest free loan advanced to the sister concern, disallowance of part of interest out of total interest paid by the assessee to the bank was not justified. More recently, the Hon'ble Supreme Court in *CIT(LTU) VS. Reliance Industries Ltd. (2019) 410 ITR 466 (SC)* has reiterated the same view.

6. When we examine the amount of Investments in the extant case at Rs.98.45 lakh as against the availability of Share Capital and Reserves at Rs.58.16 crore, it is manifested that the amount of such Investments is much less than the amount of shareholders' fund. Respectfully following the precedent, we order to delete the disallowance under Rule 8D amounting to Rs.1,59,430/-.

7. In the result, the appeal is allowed.

Order pronounced in the Open Court on 18th January, 2022.

Sd/-
(S.S.VISWANETHRA RAVI)
JUDICIAL MEMBER

Sd/-
(R.S.SYAL)
VICE PRESIDENT

पुणे Pune; दिनांक Dated : 18th January, 2022
Satish

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

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. The CIT(A)-6, Pune
4. The Pr.CIT-5, Pune
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, पुणे "A" / DR 'A',
ITAT, Pune
6. गार्ड फाईल / Guard file

आदेशानुसार/ BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune

		Date	
1.	Draft dictated on	18-01-2022	Sr.PS
2.	Draft placed before author	18-01-2022	Sr.PS
3.	Draft proposed & placed before the second member		JM
4.	Draft discussed/approved by Second Member.		JM
5.	Approved Draft comes to the Sr.PS/PS		Sr.PS
6.	Kept for pronouncement on		Sr.PS
7.	Date of uploading order		Sr.PS
8.	File sent to the Bench Clerk		Sr.PS
9.	Date on which file goes to the Head Clerk		
10.	Date on which file goes to the A.R.		
11.	Date of dispatch of Order.		

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