

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH, CHENNAI

श्री महावीर सिंह, उपाध्यक्ष एवं श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष
BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.: **650/CHNY/2020**

निर्धारण वर्ष /Assessment Year: 2015 - 16

M/s. Rane Holdings Limited,
No.132, Maithri,
Cathedral Road,
Chennai – 600 086.

The DCIT,
v. Corporate Circle-5(1),
Chennai – 34.

PAN : AABCR 5136J

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri R. Vijayaraghavan, Advocate

प्रत्यर्थी की ओर से/Respondent by

: Shri AR.V. Sreenivasan, Addl. CIT

सुनवाई की तारीख/Date of Hearing

: 11.01.2022

घोषणा की तारीख/Date of Pronouncement

: 18.01.2022

आदेश /O R D E R

PER MAHAVIR SINGH, VP:

This appeal by the assessee is arising out of order of the order of Commissioner of Income Tax (Appeals)-3, Chennai in ITA No.84/CIT(A)-3/2017-18, vide order dated 11.02.2020. The assessment was framed by the DCIT, Corporate Circle-5(1), Chennai for the assessment year 2015-16 vide order dated

28.12.2017 u/s.143(3) of the Income Tax Act, 1961 (hereinafter the 'Act').

2. The only issue in this appeal of assessee is as regards to the order of CIT(A) confirming the action of the AO in disallowing expenses relatable to exempt income by invoking the provisions of section 14A of the Act read with Rule 8D(2)(ii) & (iii) of the Income Tax Rules, 1962 (hereinafter the 'Rules'). For this, assessee has raised various grounds, which need not be reproduced.

3. Brief facts are that the assessee is the holding company of 'Rane' group of companies and is engaged in the business of providing services to its group companies in the areas of management, information technology, business development and infrastructure. The AO while framing assessment u/s.143(3) of the Act noticed that the assessee has made investment in equity instruments from where the assessee has earned exempt income in the shape of dividend, etc., and accordingly, he required the assessee to explain as to why disallowance u/s.14A of the Act read with Rule 8D(2)(ii) regarding interest expenses and under Rule 8D(2)(iii) regarding administrative expenses, be not disallowed. The assessee before the AO explained that the interest expenses

be not disallowed under Rule 8D(2)(ii) for the reason that the assessee company has sufficient funds as Reserves and Surplus and Share Capital which is more than investment made in equities giving rise to exempt income. The assessee claimed before the AO that it had suo-motu disallowed a sum of Rs.11,85,570/- in regard to earning of exempt income but AO was not convinced and he noted no expenditure has been incurred in relation to income which does not form part of total income. Therefore the AO applied the formula envisaged under Rule 8D(2)(ii) and disallowed interest expenses of Rs.2,92,350/-, as administrative expenses under Rule 8D(2)(iii) at Rs.1,07,70,000/- taking 0.5% of average value of investment. The AO made total addition u/s.14A r.w.Rule 8D(2) at Rs.1,10,62,350/-. Aggrieved the assessee preferred appeal before CIT(A).

4. The CIT(A) simply confirmed the action of the AO and also directed the AO to verify the claim of assessee as to whether it had already disallowed some amount on this count. He further directed if the assessee has already disallowed some amount then the AO to modify the impugned disallowance. Aggrieved, the assessee came in second appeal before the Tribunal.

5. Before us, the Id.counsel for the assessee first of all took us through the dividend earned by assessee company and he filed the details which are as under:-

| Date | Dividend received from | Rs. In lakhs |
|------------|---|--------------|
| 01.08.2014 | Kar Mobile Limited | 22 |
| 27.05.2014 | Rane Madras Limited | 55 |
| 28.07.2014 | Rane Brake Lining Limited | 268 |
| 08.08.2014 | Rane Madras Limited | 325 |
| 24.07.2014 | Rane TRW Steering System – Final Dividend | 218 |
| 02.02.2015 | Rane TRW Steering System – Interim Dividend | 437 |
| | Dividend from sister concerns | 1,326 |
| | Dividend from Mutual Funds | 62 |

The Id.counsel for the assessee also filed the details of disallowance of expenses made during the financial year 2014-15 relevant to assessment year 2015-16 and the disallowance on account of salaries is to the extent of Rs.7,97,257/- and disallowance of administrative expenses is to the extent of Rs.3,88,312/- and thereby the total disallowance suo-motu made by the assessee is to the extent of Rs.11,85,570/-. Further, the Id.counsel for the assessee in regard to the disallowance of interest expenses under Rule 8D(2)(ii), took our attention to the schedules attached to the balance sheet as on 31.03.2015. He drew our attention to the shareholders funds as on 31.03.2015 which are as under:-

| ₹ Lakhs | |
|--------------------------|----------------------|
| Particulars | As on 31 March, 2015 |
| (1) Shareholder's Funds | |
| (a) Share Capital | 1,428 |
| (b) Reserves and Surplus | 26,878 |

5.1 The Id.counsel then took us through non-current investments which are at Rs.222 crores and current investment at Rs.12 crores. The Id.counsel for the assessee stated that neither the AO nor the CIT(A) has nowhere proved the nexus of expenses relatable to exempt income despite the fact that assessee produced complete books of accounts, balance sheet, profit & loss account and other accounts and documents before the AO during scrutiny assessment. Once nexus is not proved always the assessee has to fall back on presumption and presumption is that assessee is having more interest free funds available with it in the shape of Share capital and Reserves and Surplus and once these interest free funds are available with the assessee, the issue is squarely covered by the decision of Hon'ble Bombay High Court in the case of CIT vs. HDFC Bank Ltd, 366 ITR 505, wherein it was held that it would have to be presumed that the investment made by assessee would be out of the interest free funds available with the assessee. According to Id.counsel, this issue is covered by the decision of HDFC Bank Ltd., *supra*.

5.2 As regards disallowance under Rule 8D(2)(iii) regarding administrative expenses, Id.counsel for the assessee drew our attention to the order of AO that the AO has not recorded any satisfaction as is envisaged under Rule 8D(2) that before resorting to disallowance of expenses relatable to exempt income, the AO has to satisfy about the expenses relatable to exempt income. He took us through the entire assessment order and stated that the AO has nowhere pointed out which expenses are relatable to exempt income and moreover the assessee has suo-motu disallowed administrative expenses and how those are not commensurate with the exempt income. Alternatively, the Id.counsel also made submission that, in case his first argument is not accepted then the disallowance should be restricted only to the extent of investment made in instruments giving raise to exempt income which should be considered for the purpose of ascertaining 0.5% of average value of investment under Rule 8D(2)(iii) of the Rules.

6. On the other hand, the Id. Senior DR argued that the AO has recorded satisfaction and there is no prescribed method or formula or proforma for recording of satisfaction whereas the AO has categorically stated that he is not satisfied. As regards to

disallowance of interest expenses under Rule 8D(2)(ii), he could not make any argument, he left the decision on the Bench.

7. In reply, the Id.counsel for the assessee stated that the AO is not aware about the fact that assessee has suo-motu disallowed expenses of Rs.11,85,570/- qua exempt income, then, how he can be satisfied about incurring of expenditure which are relatable to exempt income.

8. We have heard rival contentions and gone through facts and circumstances of the case. Admitted facts are that the assessee has earned dividend income and claimed the same as exempt out of investments made in equity instruments. Admitted facts are that the assessee has more interest free funds available with it in the shape of Share Capital and Reserves and Surplus, which are to the tune of Rs.283.06 crores as against the investments of Rs.234 crores. We noted from the assessment order that the AO has recorded the finding that the assessee has not incurred any expenditure in relation to income which does not form part of total income and this finding is totally absurd whereas the assessee has incurred expenditure of Rs.11,85,570/-. As regards interest expenses, once the AO is unable to prove the nexus of expenditure

with the investment made in instruments giving rise to exempt income, the presumption will come into play and presumption is that the assessee might have invested out of interest free funds available with it in the instruments giving rise to exempt income. Hence, this issue is squarely covered in favour of the assessee by the decision of Hon'ble Bombay High Court in the case of HDFC Bank Ltd., *supra*. Respectfully following the order of Hon'ble Bombay High Court, we allow this issue of assessee's appeal.

9. Coming to administrative expenses disallowed under Rule 8D(2)(iii), first of all we noted from the assessment order that the AO has not recorded any subjective satisfaction and the so called satisfaction recorded by the AO is on totally wrong presumption that the assessee has not attributed any expenditure to exempt income, whereas the assessee has disallowed a sum of Rs.11,85,570/- towards exempt income. Once the AO has not recorded satisfaction as envisaged under Rule 8D(2) of the Rules, the issue is in favour of the assessee in view of the decision of Hon'ble Supreme Court in the case of Maxopp Investments Ltd., vs. CIT (2018) 402 ITR 640. The Hon'ble Supreme Court held as under:-

“Having regard to the language of section 14A(2) of the Act, read with rule 8D of the Rules, we also make it clear that before applying the

theory of apportionment, the Assessing Officer needs to record satisfaction that having regard to the kind of the assessee, suo motu disallowance under section 14A was not correct. It will be in those cases where the assessee in his return has himself apportioned the expenditure but the Assessing Officer was not accepting the said apportionment. In that eventuality, it will have to record its satisfaction to this effect.”

10. In view of the above decision we are of the view that this issue is squarely covered in favour of the assessee as the AO failed to record satisfaction for making disallowance under Rule 8D(2) of the Rules. Hence, we delete the disallowance and allow this issue of assessee’s appeal.

11. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the open court on 18th January, 2022 at Chennai.

Sd/-

(मनोज कुमार अग्रवाल)

(MANOJ KUMAR AGGARWAL)

लेखा सदस्य /ACCOUNTANT MEMBER

Sd/-

(महावीर सिंह)

(MAHAVIR SINGH)

उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,

दिनांक/Dated, the 18th January, 2022

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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|------------------------|--------------------------|------------------------------|
| 1. अपीलार्थी/Appellant | 2. प्रत्यर्थी/Respondent | 3. आयकर आयुक्त (अपील)/CIT(A) |
| 4. आयकर आयुक्त /CIT | 5. विभागीय प्रतिनिधि/DR | 6. गार्ड फाईल/GF. |