

IN THE INCOME TAX APPELLATE TRIBUNAL  
“D” BENCH, MUMBAI

BEFORE SHRI SAKTIJIT DEY (JUDICIAL MEMBER)  
AND  
SHRI RAJESH KUMAR (ACCOUNTANT MEMBER)

I.T.A. No.6420/Mum/2017  
(Assessment year 2013-14)

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| Deputy Commissioner of Income-tax-3(2)(1), Mumbai | vs | M/s Millenium Appliances India Ltd<br>171-C, 17 <sup>th</sup> Floor, 'C' Wing, Mittal Court, Nariman Point, Mumbai-400 021<br>PAN : AACCM7838D |
| <b>APPELLANT</b>                                  |    | <b>RESPONDENT</b>  |

|               |                        |
|---------------|------------------------|
| Appellant by  | Smt. R.M. Madhvi, DR   |
| Respondent by | Shri Akash Marthak, AR |

|                       |            |
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| Date of hearing       | 02-09-2021 |
| Date of pronouncement | 13-09-2021 |

**ORDER**

**Per Saktijit Dey (JM)**

This is an appeal by the revenue against order dated 19-07-2017 of learned Commissioner of Income Tax (Appeals)-8, Mumbai for the assessment year 2013-14.

2. In grounds 1 to 4 revenue has challenged deletion of disallowance made under section 14A of the Income Tax Act, 1961 r.w.r. 8Dof I.T. Rules, 1962 while computing income, both, under the normal provisions as well as under section 115JB of the Act.

3. Briefly the facts are, the assessee is a resident company engaged in the business of manufacturing, trading and investment in shares. For the assessment year under dispute, assessee filed its return of income within the due date declaring total loss of Rs.14,38,91,218/- under the normal provisions of the Act and book loss of Rs.5,56,24,449/- under section 115JB of the Act. In course of assessment proceedings, the assessing officer, while verifying the computation of income filed by the assessee, noticed that the assessee had disallowed an amount of Rs.4,50,617/- under section 14A of the Act. Being of the view that the assessee has not computed the disallowance in accordance with Rule 8D, the assessing officer computed disallowance at Rs.1,63,08,360/- both under the normal provisions of the Act as well as under section 115JB of the Act. Assessee contested the aforesaid disallowance before learned Commissioner (Appeals). After considering the submissions of the assessee vis-à-vis the facts and materials on record as well as the judicial precedents cited before him, learned Commissioner (Appeals) deleted the disallowance made under section 14A r.w.r. 8D both under the normal provisions of the Act as well as under section 115JB of the Act.

4. We have considered rival submissions and perused materials on record. Facts emanating from record reveal that during the year under consideration, the assessee had not earned any exempt income whatsoever. The aforesaid factual position has not been controverted before us by the revenue. Thus, as per the settled legal principle, in absence of any exempt income earned during the year under consideration, no disallowance under section 14A could have been made. Therefore, learned Commissioner (Appeals) was justified in deleting the

disallowance. Further, it is well settled, while computing book profit under section 115JB of the Act, no adjustment can be made to the book profit with reference to the provisions of section 14A r.w.r. 8D. Thus, the decision of learned Commissioner (Appeals) in this regard is also well founded. In view of the aforesaid, we uphold the decision of learned Commissioner (Appeals) and dismiss the grounds raised.

5. In ground 5, revenue has challenged deletion of disallowance made of Rs.42,055/- being interest paid to central excise department.

6. Briefly the facts are, in course of assessment proceedings, the assessing officer noticed that the assessee has debited an amount of Rs.42,055/- to the profit and loss account towards interest paid to central excise department. Alleging that no details were furnished by the assessee, the assessing officer disallowed the amount. Learned Commissioner (Appeals) deleted the disallowance while deciding the issue in appeal.

7. We have considered rival contentions and perused materials on record. As could be seen, learned Commissioner (Appeals) has deleted the disallowance by holding that the interest paid is compensatory in nature and is not of penal character. The aforesaid factual finding of learned Commissioner (Appeals) could not be controverted by the revenue. In view of the aforesaid, we do not find any infirmity in the decision of learned Commissioner (Appeals). Ground raised is dismissed.

8. Grounds 6 and 7 being of general nature, are dismissed.

9. In the result, appeal of the revenue is dismissed.

Order pronounced on 13/09/2021.

Sd/-

sd/-

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|--------------------------|------------------------|
| <b>(RAJESH KUMAR)</b>    | <b>SAKTIJIT DEY</b>    |
| <b>ACCOUNTANT MEMBER</b> | <b>JUDICIAL MEMBER</b> |

Mumbai, Dt : 13/09/2021

Pavanan

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1. Appellant
2. Respondent
3. The CIT concerned
4. The CIT(A)
5. The DR, ITAT, Mumbai
6. Guard File

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By Order

Asstt. Registrar, ITAT, Mumbai