

IN THE INCOME TAX APPELLATE TRIBUNAL "B"
BENCH KOLKATA

Before Shri Sanjay Garg, Judicial Member and Shri Girish Agrawal, Accountant Member

I.T.A. No.141/Kol/2021
Assessment Year: 2015-16

M/s Sudhakar Barter Pvt. Ltd
(Now Sudhakar Barter LLP)Appellant
2nd Floor, C-11, Shivalik Colony,
Malviya Nagar, New Delhi
[PAN: AAKCS5649E]

vs.

ITO, Ward-1(3), Kolkata.....Respondent

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 : March 31, 2022

Date of pronouncing the order : March 31, 2022

ORDER

Per Sanjay Garg, Judicial Member:

The present appeal has been preferred by the assessee against the order dated 08.03.2021 of the National Faceless Appeal Centre [hereinafter referred to as 'CIT(A)'] passed u/s 250 of the Income Tax Act (hereinafter referred to as the 'Act').

2. No one has put in appearance on behalf of the assessee despite notice, therefore, we proceed to decide the present appeal on merits after going through the records and after hearing the ld. DR. The assessee in this appeal has taken the following grounds of appeal:

"1. That order passed u/s 250(6) of the Income Tax Act, 1961 by the Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi is against law and facts on the file in as much as he was not justified to arbitrarily uphold a disallowance of Rs. 3,98,861/- u/s 14A of the Income Tax Act, 1961.....made by the Learned Assessing Officer while framing assessment.

2. That the Learned CIT(A) was not justified to uphold disallowance u/s 14A particularly in view of the fact that the appellant company did not enjoy any exempt income during the relevant assessment year.

3. That the Learned CIT(A) gravely erred in upholding the disallowance u/s 14A particularly in view of the fact that the total expenditure incurred by the appellant

company was only of Rs. 53,274/- against which a disallowance was made at Rs.3,98,861/-."

3. A perusal of the above grounds of appeal reveals that the only issue raised by the assessee is relating to disallowance made by the Assessing Officer u/s 14A of the Act on account of notional expenditure that might have been incurred by the assessee for earning of tax exempt dividend income. A perusal of the records reveals that the assessee during the year did not earn any tax exempt income. The issue admittedly is covered by the various decisions of the Hon'ble High Courts of the country, wherein, it has been held that if no exempt income has been earned by the assessee on the investments made, no disallowance is to be made u/s 14A. Reliance in this respect can be place on the following case laws: CIT, Faridabad Vs. Lakhani Marketing Inc.' 226 Taxman 45 (P&H); CIT Vs. Winsome Textiles (2009) 319 ITR 204 (P&H) Cheminvest Ltd Vs. ITO' (2015) 378 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 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.

In view of the above discussion, the lower authorities were not justified in making the impugned disallowance and the same is ordered to be deleted.

5. In the result, the appeal of the assessee is allowed.

Kolkata, the 31st March, 2022.

Sd/-
[Girish Agrawal]
Accountant Member

Sd/-
[Sanjay Garg]
Judicial Member

Dated: 31.03.2022.

RS

Copy of the order forwarded to:

1. M/s Sudhakar Barter Pvt. Ltd
(Now Sudhakar Barter LLP)
2. ITO, Ward-1(3), Kolkata
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches