

**IN THE INCOME TAX APPELLATE TRIBUNAL
AMRITSAR BENCH, AMRITSAR**

**BEFORE DR. M. L. MEENA, ACCOUNTANT MEMBER
AND SH. ANIKESH BANERJEE, JUDICIAL MEMBER**

I.T.A. No. 170/Asr/2020
Assessment Year: 2010-11

Kailash Chand Prop. M.K. Vs.
Steels, Jalandhar
[PAN: AAIPC3881H]
(Appellant)

Assistant Commissioner
of Income Tax Circle-II,
Jalandhar
(Respondent)

Appellant by :None

Respondent by: Sh. Sh. Anupam K. Garg, CIT(DR)

Date of Hearing: 28.02.2022

Date of Pronouncement: 02.03.2022

ORDER

Per Dr. M. L. Meena, AM:

The captioned appeal is filed by the assessee against the order dated 31.08.2018 passed by the learned CIT appeal – 1,(hereinafter referred to as “the CIT appeal” Jalandhar in respect of ratification order passed under section 154 of the act by the Assistant Commissioner of income tax, circle – II, Jalandhar (in short “the AO”).

2. The learned counsel for the assessee has filed an adjournment application, showing inability to appear for the hearing and present the case. This none appeared for the assessee. However, considering the minor issue agitated by the assessee challenging the AO’s action under section 154 where the issue disputed have more than one reputation and quantum of addition disputed was of ₹ 210,923, in our view, the

personal attendance for presentation of the case either for the appellant or they landed AR was not required. Accordingly, the bench has instructed the Ld. CIT DR to present the case and the stand of the Department. He stands by the impugned order contending that the CIT Appeal has passed a speaking order that there is no provision in the income tax law to limit the disallowances under section 14A of the act to the exempt income.

3. The appellant assessee has filed an application dated 03/03/2021 for condonation of delay of 3 days in filing this appeal under reference, contending that although the appeal was sent by email on 6th November 2020 and same day it was sent by speed post which was delivered in the terminal office on 11 November 2020 with a delay of 3 days. The consequential postal delay of 3 days has been requested to be condoned to meet the end of justice. Considering the genuine cause the control of the assessee the minor delay of 3 days in filing this appeal is hereby condoned.

4. We have heard the learned CIT(DR), perusing the impugned order and written submissions filed by the assessee on record. Admittedly, the AO has passed order under section 143 3 of the income tax act 1961 by invoking provisions of section 14A read with rule 8D of the income tax act. The Ld. CIT appeal has observed that while making disallowance, the calculation mistake has crept which was rectified by the order passed under section 154 of the income tax act 1961 by giving the due opportunities to the assessee. Thus, the AO has rectified mistake apparent from the record, which is covered in the scope of section 154 of the income tax act 1961.

5. The law is well settled on the issue of disallowances under section 14A read with rule 8D of the income tax act which shall be restricted to the amount of exempt income only. Similar view is held by the Hon'ble Jurisdictional High Court of Punjab and Haryana in the case of principal CIT versus state bank of Patiala in ITA number 270 of 2016 order dated 26th Feb., 2017 and many High Courts as relied upon by the planet AR.

6. From the above, it is evident that the observation of the CIT appeal that the addition made under section 154 of rupees 2,10,023/-by the AO under section 154 of the act was justified, even though it was much more than the exempted income was certainly against law and cannot be approved. Under no circumstances, disallowances under section 14A read with rule 8D cannot be more than the exempt income of the assessee.

7. In the backdrop of the above discussion, we direct the assessing officer to compute the disallowance made u/s 14A of the Act, read with Rule 8D of the Income tax Rules restricting the same to the exempted income of the assessee after granting adequate opportunity of being heard. Accordingly, the impugned order stands modified so.

8. In the result, the appeal is decided in the terms indicated as above.

Order pronounced in the open court on 02.03.2022

Sd/-
(AnikeshBanerjee)
Judicial Member

Sd/-
(Dr. M. L. Meena)
Accountant Member

*Doc**
Date: 02.03.2022

Copy of the order forwarded to:

- (1) The Appellant:
- (2) The Respondent:
- (3) The CIT(Appeals)
- (4) The CIT concerned
- (5) The Sr. DR, I.T.A.T

True Copy
By Order