

IN THE INCOME TAX APPELLATE TRIBUNAL
[DELHI BENCH "E" NEW DELHI]

BEFORE SHRI G. S. PANNU, PRESIDENT
A N D
SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER

आ.अ.सं./I.T.A No. 7445/Del/2019
निर्धारणवर्ष/Assessment Year: 2016-17

ACIT Circle : 18 (1), New Delhi.	<u>बनाम</u> Vs.	M/s. National Textile Corporation Ltd., Core-4, Scope Complex-7 Institutional Area, Lodhi Road, New Delhi - 110 003.
		PAN : AAACN2847D
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारितकीओरसे / Assessee by :	Shri Ved Jain, Advocate; & Shri Ashish Goyal, C.A.;
राजस्वकीओरसे / Department by :	Ms. Garima Sharma, Sr. D.R.;

सुनवाईकीतारीख/ Date of hearing :	07/06/2022
उद्घोषणाकीतारीख/Pronouncement on :	07/06/2022

आदेश / O R D E R

PER C. N. PRASAD, J. M. :

1. This appeal is filed by the Revenue against the order of the Id. Commissioner of Income Tax (Appeals)-37 [hereinafter referred to as CIT (Appeals)] New Delhi, dated 20.06.2019 for assessment year 2010-11.

2. The Revenue has raised the following grounds of appeal:-

“1. Whether on fact and in circumstances of the case Ld. CIT(A) is legally justified in not upholding the disallowance u/s 14A of the Act amounting to Rs.37,18,788/- even when assessee is in receipt of exempt income and when section 14A of the Act stipulates mandatory computation of direct and indirect expenses relating to the income and forming part of total income under all the clauses(i), (ii) and (iii) of Rule 8D(2) of the Rule?

2. Whether on fact and in circumstances of the case and in law, the Ld. CIT(A) was justified in deleting the disallowance made of Rs.36277000/- by the assessing Officer as prior period expenses? “

3. At the outset, the ld. Counsel for the assessee submits that ground No. 1 of appeal relating to disallowance of Rs.37,18,788/- under Section 14A read with Rule 8D is deleted by the ld. CIT (Appeals) following the order of the Tribunal in assessee's own case for assessment year 2009-10 in ITA. No. 2211/Del/2013 dated 19.11.2014. The ld. Counsel submits that assessee has own funds more than the value of investments and, therefore, no disallowance under Rule 8D(2)(ii) is warranted. The ld. Counsel for the assessee referring to page 1 of the synopsis submits that the assessee has own funds at 1,46,780.47 lakhs and whereas the investments were at 1957.39 lakhs. The ld. Counsel also submitted that the issue is squarely covered by the judgement of the apex court in the case of South Indian Bank Ltd. Vs. CIT (Civil Appeal No. 9606 of 2011 - dated 09.09.2021).

4. The ld. DR supported the order of the Assessing Officer.

5. It is observed from the order of the ld. CIT (Appeals) that the disallowance made under Rule 8D(2)(ii) towards interest has been deleted by the ld. CIT (Appeals) following the order of the Tribunal in assessee's own case for assessment year 2009-10 in ITA. No. 2211 (Del) of 2013 dated 19.11.2014. On perusal of the balance sheet of the assessee as on 31.03.2016 we observed that the assessee has share capital and reserves and surplus as on 1.04.2015 at

145173.31 lakhs and whereas the investments during the year under consideration stood at 1957.39 lakhs. In the case of South Indian Bank Ltd. Vs. CIT (supra) it has been held that if investments in securities is made out of common funds and the assessee has availed non-interest bearing funds larger than the investments made in tax-free securities then in such cases disallowance under Section 14A cannot be made. On observing the balance sheet, we find that the assessee has sufficient own funds much more than the investments. Therefore, ratio of the decision of the Hon'ble Supreme Court in the case of South Indian Bank Ltd. Vs. CIT (supra) squarely applies to the assessee. Respectfully following the said decision, we delete the disallowance made under Rule 8D(2)(ii) made by the Assessing Officer. Ground No. 1 is rejected.

6. Coming to the addition on account of disallowance relating to prior period expenses, the ld. Counsel for the assessee submits that this issue is also squarely covered in favour of the assessee in its own case by the order of the Tribunal in preceding assessment years. The ld. Counsel for the assessee submits that the assessee has prior period income of Rs.423.76 lakhs and prior period expenses of Rs.362.77 lakhs and the details of both these amounts were disclosed in the financial statements in Note No. 29 of Notes on accounts. The ld. Counsel submits that the net amount of Rs.60.99 lakhs was declared as income in profit and loss account and offered for tax. It is submitted that the assessee company has been consistently following the policy of netting out prior period income with prior period expenses and these expenses may pertain to earlier periods, but have crystallized only in the current year i.e. 2016-17. The ld. Counsel submits that the Tribunal in assessee's own case for the assessment year 2009-10 sustained the order of the ld. CIT (Appeals) in accepting the stand of the assessee which was consistently followed from year to year applying Principle of Consistency. The ld. Counsel submits that the decision of the Tribunal for assessment year 2009-10 was followed in assessment year 2014-15 by the Tribunal in ITA. No. 4668/Del/2017 vide order dated 22.01.2020.

7. The ld. DR supported the orders of the Assessing Officer.

8. We have heard the rival submissions perused the orders of the Tribunal in assessee's own case. For the assessment year 2009-10 the Tribunal in ITA. No. 2211 (Del) of 2013 dated 19.11.2014 accepted the claim of the assessee for netting off of prior period income against prior period expenses, observing as under:-

“7.2. Ground nos. 3 and 4 are on the issue of disallowance of prior period expenses. The assessee has incurred prior period expenses of Rs.16,61,43,508/-. It had prior period income of Rs.10,22,60,782/-. The net prior period amount of Rs.63,88,272/-, was already added by the assessee in the computation of income. Thus, the finding of the First Appellate Authority that there is a double addition of Rs.63,88,272/- is factually correct.

7.3. As far as the balance amount is concerned the assessee's contention is that the amount has crystallised during the year, as the assessee came to know about these expenses only in the F. Y. 2008-09.

7.4 The second limb of the argument of the assessee is that, which has been consistently following the policy of netting out prior period income with prior period expenses and the net effect was disclosed in the computation of income. It was also submitted that such a treatment was accepted by the Revenue for the AY 2007-08 and 2008-09. The First Appellate Authority has, on the principle of consistency, accepted the contentions of the assessee. We find no infirmity in the same. Thus ground no.3 and 4 are dismissed.”

9. Following the above decision for assessment year 2009-10 the Tribunal in its order dated 22.01.2020 in ITA. No. 4668 (Del) of 2017 for assessment year 2014-15, held as under:-

“7.1 The second issue of prior period expenditure is admittedly covered by the Order of ITAT Dated 19.11.2014 (supra). Following the same reasons for decision for the A. Y. 2009-2010 on identical facts, we do not find any merit in the Departmental appeal and the same is accordingly dismissed.”

10. Facts being identical, respectfully following the said decision, we uphold the order of the Id. CIT (Appeals) on this issue. Ground No. 2 of Revenue's appeal is rejected.

11. In the result, appeal of the Revenue is dismissed.

Order pronounced in the open court on : 07/06/2022.

Sd/-
(G. S. PANNU)
PRESIDENT

Sd/-
(C. N. PRASAD)
JUDICIAL MEMBER

Dated : 07/06/2022.

MEHTA

Copy forwarded to :

1. Appellant;
2. Respondent;
3. CIT
4. CIT (Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi.

Date of dictation	07.06.2022
Date on which the typed draft is placed before the dictating member	07.06.2022
Date on which the typed draft is placed before the other member	07.06.2022
Date on which the approved draft comes to the Sr. PS/ PS	07.06.2022
Date on which the fair order is placed before the dictating member for pronouncement	07.06.2022
Date on which the fair order comes back to the Sr. PS/ PS	07.06.2022
Date on which the final order is uploaded on the website of ITAT	07.06.2022
Date on which the file goes to the Bench Clerk	07.06.2022

Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the order	