

IN THE INCOME TAX APPELLATE TRIBUNAL “C” BENCH: KOLKATA
[Before Shri Sanjay Garg, Judicial Member & Shri Rajesh Kumar, Accountant Member]

I.T.A. No. 1664/Kol/2019
Assessment Year : 2015-16

M/s Champion Commercial Co. Ltd. (PAN: AABCC 2373 G)	Vs.	DCIT, Circle-10(1), Kolkata
Appellant		Respondent

Date of Hearing	14.06.2022
Date of Pronouncement	27.06.2022
For the Appellant	Shri Manoj Kataruka, A.R
For the Respondent	Shri Shallong Yaden, Addl. CIT

ORDER

Per Shri Rajesh Kumar, AM:

This is the appeal preferred by the assessee against the order of the Commissioner of Income Tax(Appeals)-17, Kolkata [hereinafter referred to as ‘Ld. CIT(A)’] dated 28.06.2019 for the assessment year 2015-16.

2. The only issue raised by the assessee in ground nos. 1 to 4 is against the confirmation of addition of Rs. 22,21,318/- by Ld. CIT(A) as made by the AO u/s 14A read with Rule 8D of the Income Tax Act, 1961 (hereinafter referred to as the Act) on account of proportionate disallowance of interest expenditure.

3. Facts in brief are that the assessee has earned exempt income by way of dividend of Rs. 11,80,813/- and long term capital gain of Rs. 46,86,798/- on sale of shares and made a suo-moto disallowance of a sum of Rs. 4,51,150/- in relation to earning of exempt income comprising Rs. 3,45,163/- being 0.5% of average value of investment under Rule 8D(2)(iii) and Rs. 1,05,987/- as STT paid under Rule 8D(2)(i). Accordingly the AO called upon the assessee to submit the calculation of disallowance u/s 14A of the Act read with Rule 8D which was filed by the assessee

before the AO. According to the AO, the assessee has not considered the interest component on working capital and consequently recomputed the disallowance u/s 14A read with Rule 8D at Rs. 26,72,468/- comprising Rs. 1,05,987/- as on account of security transaction tax under Rule 8D(2)(i), Rs. 22,21,318/- as proportionate interest u/s 14A read with Rule 8D(ii) and 8D(iii) of Rs. 3,45,163/- at 0.5% of average investment under Rule 8D(2) (iii) and after allowing the deduction of suo-motu disallowance at net amount of Rs. 22,21,318/- to the income of the assessee.

4. After hearing the rival contentions and perusing the material on record, we find that the total interest free funds available in the form of reserves and surplus were Rs. 22.46 crores whereas investments in shares and securities were Rs. 8.06 crores as per the copy of the balance sheet placed at page no. 30 schedule 11 of the PB. Thus we find merit in the contention of the assessee there are sufficient interest free funds available which are more than the investments in shares and securities and therefore presumption has to be drawn that the investments in the shares and securities were made out of its interest free funds of the assessee and therefore no disallowance under Rule 8D(2)(ii) in respect of proportionate interest disallowance is called for. The case of the assessee finds support of the decision of Hon'ble Bombay High Court in the case of *CIT vs. Reliance Utilities and Power Ltd. reported in 313 ITR 340 (Bom-HC)*, *HDFC Bank Ltd. vs. DCIT reported in 383 ITR 529 (Bom-HC)*, decision of Hon'ble Gujarat High Court in the case of *CIT vs. UTI Bank Ltd. reported in [2013] 32 taxmann.com 282 (Gujarat-HC)* and the decision of Punjab & Haryana High Court in the case of *CIT vs Max India Ltd 388 ITR 81 (P&H HC)*. Respectfully following the ratio laid down in the above decisions, we are inclined to set aside the order of Ld. CIT(A) and direct the AO to delete the disallowance of Rs. 22,21,318/- as made under Section 14A read with Rule 8D(2)(ii).

5. Additional ground raised by the assessee is not pressed at the time of hearing. Therefore the same is dismissed as not pressed.

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

Order is pronounced in the open court on 27th June, 2022

Sd/-
(Sanjay Garg)
Judicial Member

Sd/-
(Rajesh Kumar)
Accountant Member

Dated: 27th June, 2022

SB, Sr. PS

Copy of the order forwarded to:

1. Appellant- M/s Champion Commercial CO. Ltd., P-15, New CIT Road, Kolkata-700073.
2. Respondent – DCIT, Circle-10(1), Kolkata
3. The CIT(A)- 17, Kolkata (Sent through e-mail)
4. Pr. CIT- Kolkata
5. DR, Kolkata Benches, Kolkata (sent through e-mail)

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By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata