

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ, अहमदाबाद ।
IN THE INCOME TAX APPELLATE TRIBUNAL
" C " BENCH, AHMEDABAD

BEFORE SMT.ANNAPURNA GUPTA, ACCOUNTANT MEMBER
AND
MS. SUCHITRA KAMBLE, JUDICIAL MEMBER

ITA No.478/Ahd/2020
Assessment Year : 2016-17

The Spunpipe & Construction Co.(Baroda) Pvt.Ltd. A/505-506 5 th Floor, Alkapuri Arcade Opp. Hotel Welcome Group RC Dutt Road, Alkapuri Vadodaa - 390 007	Vs	The ACIT Circle-2(1) Baroda
PAN: AA ACT 6738 R		
अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)
Assessee by :		-None-
Revenue by :		Ms.Pooja Parekh, Sr.DR

सुनवाई की तारीख/Date of Hearing : 28/09/2022
घोषणा की तारीख /Date of Pronouncement: 19/10/2022

आदेश/O R D E R

PER MS.SUCHITRA KAMBLE, JUDICIAL MEMBER

1. This appeal is filed by the Assessee against the order dated 28/11/2018 passed by the Commissioner of Income-tax (Appeals)-2, Vadodara ["CIT(A)" in short] for Assessment Year 2016-17.

2. The Grounds of appeal are as under :-

- The learned CIT(A) has erred in confirming the disallowance of Rs.5,80,810 under Section 14A read with Rule 8D on the ground that the CIT(A) has dismissed the appeal for AY 2014-2015 in as much as the assessee company has sufficient interest free funds and that the assessee*

has not spent any administrative expenses and therefore the question of disallowance under Section 14A read with Rule 8D does not arise.

2. *The appellant says and submits that the facts for A.Y. 2014-2015 and AY 2016-2017 are different and that the AO or CIT(A) has not discussed anything about the change of facts and CIT(A) has simply followed the CIT(A) Order for A.Y. 2014-2015 without considering the facts of the case.*
3. The assessee is engaged in the business of manufacturing and supply of M.S. Pipes with coating, BWSC Pipes, in accepting turnkey contracts for providing and laying of pipes and civil works, fabrication/manufacturing of engineering goods, development of land, construction of building & in real estate. The assessee filed return of income on 07.10.2016 declaring total income at Rs.3,54,27,140/-. The Assessing Officer made disallowance of Rs.5,80,810/- u/s 14A read with Rule 8D and determined total income at Rs.3,40,06,680/-.
4. Being aggrieved by the Assessment order, the assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee.
5. At the time of hearing, none appeared on behalf of the assessee despite giving notice of hearing. There is no new address given by the assessee. Therefore, we are proceeding on the basis of the submissions of the assessee made before the CIT(A) and Assessing Officer which are mentioned in the orders.
6. The Ld. DR submitted that the Tribunal in assessee's own case has partly allowed the issue thereby adding administrative expenses. The Ld. DR relied upon the order of the Tribunal being ITA Nos. 2594 &

2612/Ahd/2017 for A.Y. 2013-14 & 2014-15 respectively order dated 09.07.2019.

7. We have heard Ld. DR and perused all the relevant material available on record. It is pertinent to note that the assessee has sufficient interest free funds which are substantially excess of the corresponding investments. Therefore, invoking Rule 8D(2)(ii) is not proper and the same should be deleted to the extent of interest amount earned that of Rs. 3,99,522/-. But as relates to the element of administrative and general expenses which was incurred amounting to Rs.1,81,288/-, the assessee has not given any explanation to that effect except submitting that the assessee made temporary investment and therefore, the administrative expenses may be disallowed upto Rs.40,000/-. This explanation given by the assessee is insufficient and without any supportive evidence/documents. Therefore, the administrative expenses are rightly disallowed to the extent of Rs.1,81,288/- by the Assessing Officer. The Tribunal in A.Y. 2013-14 and 2014-15 in assessee's case also confirmed the administrative and general expenses. Hence, appeal of the assessee is partly allowed.

8. In result, appeal of the assessee is partly allowed.

Order pronounced in the Court on 19th October, 2022 at Ahmedabad.

Sd/-
(ANNAPURNA GUPTA)
ACCOUNTANT MEMBER

Sd/-
(SUCHITRA KAMBLE)
JUDICIAL MEMBER

Ahmedabad, Dated 19/10/2022

टी.सी.नायर, व.नि.स./T.C. NAIR, Sr. PS

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)-2, Vadodara
5. विभागीय प्रतिनिधि,आयकर अपीलीय अधिकरण ,राजकोट/DR,ITAT, Ahmedabad,
6. गार्ड फाईल /Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

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