

आयकर अपीलीय अधिकरण 'ए' न्यायपीठ चेन्नई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH, CHENNAI

माननीय श्री महावीर सिंह, उपाध्यक्ष एवं
माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।
BEFORE HON'BLE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM

आयकर अपील सं./ ITA No.271/Chny/2022
(निर्धारण वर्ष / Assessment Year: 2017-18)

M/s. Sicagen India Ltd. 4 th Floor, SPIC House, 88 Mount Road, Guindy, Chennai-600 032.	बनाम / Vs.	ACIT Corporate Circle-6(2), Chennai.
स्थायी लेखा सं./जीआइ आर सं./PAN/GIR No. AAKCS-5770-J		
(□ पीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थी की ओरसे/ Appellant by	:	Ms. C.P. Priya (Advocate)-Ld. AR
प्रत्यर्थी की ओरसे/ Respondent by	:	Shri Darzakhum Songate (CIT) –Ld. DR
सुनवाई की तारीख/ Date of Hearing	:	17-10-2022
घोषणा की तारीख / Date of Pronouncement	:	17-10-2022

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

1. By way of this appeal, the assessee assails the revisional jurisdiction as exercised by learned Pr. Commissioner of Income Tax , Chennai-3 (Pr.CIT) vide order dated 30.03.2022. The order under revision has been passed by Ld. Assessing Officer u/s 143(3) on 18.12.2019 reducing assessed loss to Rs.4.93 Lacs since interest was offered less. This order was rectified on 25.06.2020 at assessee's request to grant credit of dividend distribution tax.

2. Subsequently, upon perusal of case records, Ld. Pr. CIT held the order to be erroneous and prejudicial since the disallowance u/s 14A for Rs.69.28 Lacs was added in the normal income. However, the same was not added back while computing the Book Profits u/s 115JB which resulted into excess MAT credit.

3. The assessee submitted that no expenditure was incurred to earn the exempt income but notional expenditure of 1% of average investments was disallowed. The same was not to be considered while computing Book Profits u/s 115JB as per the decision of Hon'ble Bombay High Court in **CIT vs. Bengal Finance & Investment Pvt. Ltd. (ITA 337 of 2013 dated 10.02.2015)** as well as the decision of Hon'ble Karnataka High Court in **Sobha Developers Ltd. vs. DCIT (125 Taxmann.com 72)** which held that disallowance u/s 14A is a notional disallowance and therefore, the same could not be added back while computing Book Profits u/s 115JB. However, rejecting the same, Ld. Pr. CIT directed Ld. AO to re-compute the income u/s 115JB. Aggrieved, the assessee is in further appeal before us.

4. Upon perusal of factual matrix, it could be seen that the assessee has made notional disallowance of 1% u/s 14A against tax free income earned by it. Unless it is shown that some expenditure was incurred to earn the exempt income and the same was debited in Profit & Loss Account, the same could not have been added under Clause (f) of Explanation-1 to Sec.115JB. The cited decisions of Hon'ble High Courts duly support this view. Therefore, the impugned order could not be sustained in law. We order so.

5. The appeal stand allowed in terms of our above order.

Order pronounced on 17th October, 2022.

Sd/-
(MAHAVIR SINGH)
उपाध्यक्ष /VICE PRESIDENT

Sd/-
(MANOJ KUMAR AGGARWAL)
लेखकसदस्य / ACCOUNTANT MEMBER

चेन्नई / Chennai; दिनांक / Dated : 17-10-2022
EDN/-

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

1. अपीलार्थी/Appellant 2. प्रत्यर्थी/Respondent 3. आयकर आयुक्त (अपील)/CIT(A) 4. आयकर आयुक्त/CIT 5. विभागीय प्रतिनिधि/DR 6. गार्ड फाईल/GF