

IN THE INCOME TAX APPELLATE TRIBUNAL
"F" BENCH, MUMBAI

SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER
SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER

ITA No. 7560/MUM/2019
(Assessment Year: 2013-14)

Assistant Commissioner of Income Tax,
Circle -3(1)(2), Mumbai,
Room No. 607, 6th Floor, Aayakar Bhavan,
M.K. Road, Mumbai - 400020

..... Appellant

M/s Force Appliances Pvt. Ltd.,
171, 17th Floor, C-Wing,
Mittal Court, Nariman Point,
Mumbai - 400021
[PAN: AABCP0842M]

Vs

..... Respondent

Appearances

For the Appellant/Department : Shri Achal Sharma
For the Respondent/Assessee : Shri Jay Dharood

Date of conclusion of hearing : 20.09.2022
Date of pronouncement of order : 27.10.2022

ORDER

Per Rahul Chaudhary, Judicial Member:

1. By way of the present appeal the Revenue has challenged the order, dated 13.09.2019, passed by the Ld. Commissioner of Income Tax (Appeals)-8, Mumbai, [hereinafter referred to as 'the CIT(A)'] for the Assessment Year 2013-14, whereby the Ld. CIT(A) had partly allowed the appeal against the Assessment Order, dated 30.01.2016 passed under Section 143(3) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act').
2. The Revenue has raised the following grounds of appeal:

"1. Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) was right in deleting the disallowance u/s 14A which was computed as per Rule 8D

of I.T. Rules 1962 on the basis of CBDT Circular No. 5/2014 dated 11.02.2014 which clearly states that it is not necessary to earn exempt income in a particular year in which the disallowance is made.?

- 2. Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) was right in restricting the disallowance u/s 14A to the exempt income earned during the year which is contrary to CBDT Circular NO. 5/2014 which clarifies that the Rule 8D r.w.s. 14A of the Act provides for disallowance of the expenditure even where taxpayer in a particular year has not earned any exempt income.*
- 3. The appellant prays that the order of the CIT(A) on the above grounds be set aside and that of Assessing Officer be restored."*
3. All the grounds raised in the present appeal are directed against the order of CIT(A), whereby the addition of INR 6,39,91,822/- made by the Assessing Officer by invoking the provisions of Section 14A of the Act read with Rule 8D of the Income Tax Rules., 1962 was deleted by the CIT(A).
4. The relevant facts, in brief, are that the Assessee filed return of income on 29.09.2013 declaring loss of INR 56,79,18,474/- for the Assessment Year 2013-14. Assessment was framed on the Assessee vide order dated, 30.01.2016, under Section 143(3) of the Act. The Assessing Officer made disallowance of INR 6,39,91,822/- in addition to the suo-motu disallowance of INR 4,25,160/- made by the Assessee.
5. In the appeal preferred by the Assessee, the CIT(A) noted that the Assessee had earned dividend income of INR 6,34,811/- out of which dividend income of INR 6,27,811/- has been claimed to be exempt under Section 10(34) of the Act. Therefore, the CIT(A) restricted the disallowance under Section 14A of the Act to INR 6,27,811/- and deleted the balance disallowance made by

the Assessing Officer under Section 14A of the Act holding as under:

“3.1.4 In view of the above decision of Hon'ble SC order in Maxopp Investments Ltd, is held that disallowance u/s 14A cannot exceed the exempt income. Recently, once again, the Hon'ble Apex Court in the case of Pr CIT, Patiala Vs State Bank Patiala, 99 Taxmann.com 286, has dismissed the SLP filed against the decision of Ld P&H High Court, upholding the order of Tribunal that the total amount of disallowance u/s 14A cannot exceed the exempt income and has to be restricted to the exempt income only. So, is clear that the entire controversy with respect to the impugned issue has been put to rest by no less than the Hon'ble Apex Court of India not only once but, in fact, twice. In the present case, exempt income earned is Rs. 6,27,811/-, hence, disallowance u/s 14A in this case is restricted to Rs. 6,27,811/ Remaining disallowance is deleted. These grounds are partly allowed.”

6. The revenue is now in appeal before us. We have considered the rival submission and perused the material on record. We note that the CIT(A) has restricted the disallowance under Section 14A of the Act to the amount of exempt income (INR 6,27,811) by following the decision of the Hon'ble Supreme Court in the case of Principal Commissioner of Income Tax vs. State Bank of Patiala (2018) 99 Taxmann.com 286 (SC). Accordingly, we do not find any infirmity in the order passed by CIT(A). The grounds raised by the Revenue are dismissed.

7. In the result, the present appeal is dismissed.

Order pronounced on 27.10.2022.

Sd/-
(Prashant Maharishi)
Accountant Member

Sd/-
(Rahul Chaudhary)
Judicial Member

मुंबई Mumbai; दिनांक Dated : 27.10.2022 Alindra, PS

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

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

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार /(Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai