

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

**माननीय श्री वी. दुर्गा राव, न्यायिक सदस्य एवं**  
**माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।**  
**BEFORE HON'BLE SHRI V. DURGA RAO, JUDICIAL MEMBER AND**  
**HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM**

आयकर अपील सं./ **ITA No.1367/Chny/2019**  
(निर्धारण वर्ष / **Assessment Year: 2012-13**)

<b>Take Solutions Ltd.</b> No.27, Tank Bund Road, Nungambakkam, Chennai – 600 034.	<b>बनाम/ Vs.</b>	<b>ACIT</b> Corporate Range-3(1), Chennai.
<b>स्थायी लेखा सं./जीआइ आर सं./PAN/GIR No. AABCT-3684-M</b>		
(□ पीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

अपीलार्थी की ओरसे/ <b>Appellant by</b>	:	Shri K. Prasanna (CA) – Ld. AR
प्रत्यर्थी की ओरसे/ <b>Respondent by</b>	:	Shri AR. V Sreenivasan (Addl.CIT) – Ld. DR

सुनवाई की तारीख/ <b>Date of Hearing</b>	:	29-11-2022
घोषणा की तारीख / <b>Date of Pronouncement</b>	:	29-11-2022

**आदेश / ORDER**

**Manoj Kumar Aggarwal (Accountant Member)**

1. Aforesaid appeal by assessee for Assessment Year (AY) 2012-13 arises out of the order of learned Commissioner of Income Tax (Appeals)-11, Chennai [CIT(A)] dated 15-02-2019 in the matter of an assessment framed by Ld. Assessing Officer [AO] u/s.143(3) r.w.s. 254 of the Act on 17-12-2018. This is a second round of appeal since the matter, in the first round, was remitted back by the Tribunal vide ITA No.175/Mds/2017 order dated 05-12-2017 to the file of Ld. AO for fresh

adjudication. The sole subject matter of the appeal is disallowance u/s 14A read with Rule 8D.

2. The Ld. AR submitted that own funds far exceed the investments made by the assessee and all the investments were made in earlier years. Therefore, interest disallowance would not be justified. The Ld. AR also submitted that indirect expense disallowance may be computed by considering only those investments which have actually yielded any exempt income during the year. The Ld. Sr. DR controverted the arguments of Ld. AR. Having heard rival submissions, the appeal is disposed-off as under.

3. Upon perusal of assessment order, it could be seen that Ld. AO has computed aggregate disallowance of Rs.92.42 Lacs u/r 8D(2) which include interest disallowance u/r 8D(2)(ii) for Rs.65.71 Lacs and indirect expense disallowance u/r 8D(2)(iii) for Rs.26.70 Lacs. The Ld. CIT(A) has confirmed the same against which the assessee is in further appeal before us.

4. Upon perusal of assessment order, it could be seen that opening value of investments as well as closing value of investments as taken by Ld. AO to compute the disallowance is same which would show that no fresh investment has been made by the assessee during this year. The perusal of financial statements for this year, as placed, on record, would show that own funds in the shape of share capital and Reserves far exceed the investments made by the assessee and therefore, a presumption would arise in assessee's favor that the investments were sourced out of own funds since no nexus of interest-bearing funds vis-à-vis investments made by the assessee has been established by Ld. AO. Therefore, in our considered opinion, interest disallowance is not

justified. The indirect disallowance may be computed by Ld. AO u/r 8D(2)(iii) by considering only those investments which have actually yielded exempt income during the year. The assessee is directed to provide the requisite details.

5. The appeal stands partly allowed.

Order pronounced on 29<sup>th</sup> November, 2022.

**Sd/-**  
**(V. DURGA RAO)**  
**न्यायिक सदस्य / JUDICIAL MEMBER**

**Sd/-**  
**(MANOJ KUMAR AGGARWAL)**  
**लेखक सदस्य / ACCOUNTANT MEMBER**

चेन्नई / Chennai; दिनांक / Dated : 29-11-2022  
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