

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: A: NEW DELHI

BEFORE SHRI CHANDRA MOHAN GARG, JUDICIAL MEMBER
AND
SHRI B.R.R. KUMAR, ACCOUNTANT MEMBER

ITA No.648/Del/2020
Assessment Year: 2014-15

The DCIT, Circle-3(1), New Delhi	vs .	M/s. APL Apollo Tubes Ltd., 37-Hargovind Enclave, Vikas Marg, New Delhi 110092. PAN AAACB0960D
(Appellant)		(Respondent)

For Revenue :	Shri Kanv Bali, Sr DR
For Assessee :	Shri Somil Agarwal, Advocate Shri Shrey Jain, Advocate

Date of Hearing :	08.02.2023
Date of Pronouncement :	13.02.2023

ORDER

PER CHANDRA MOHAN GARG, J.M.

This appeal filed by the revenue is directed against the order dated 11.11.2019 of the Ld. CIT(A)-I, New Delhi relating to Assessment Year 2014-15.

2. The grounds of appeal raised by the revenue read as under:

1. On the facts and circumstances of the case, Ld. CIT(A) has erred in restricting the addition of Rs. 4,93,31,099/- made by the A.O. u/s. 14A r.w.s. 8D to Rs. 2,65,74,425/- even when the assessee has revised disallowance three times but no such disallowance was made in ITR.

3. The learned Senior DR submitted that the Ld. CIT(A) has erred in restricting the addition made by the AO u/s. 14A of the Income Tax Act 1961 (for short 'the Act')r.w.s. 8D of Income Tax Rules 1962 (for short 'the Act') to Rs. 2,65,74,425/- even when the assessee has revised disallowance three times but no such disallowance was made in the ITR in the Income Tax of return filed by the assessee for relevant A.Y. 2014-15.

4. Therefore the impugned first appellate order may kindly be set aside by restoring that of the AO.

5. Replying to the above the learned counsel of the assessee by placing reliance on the judgment Hon'ble jurisdictional High Court of Delhi in the case of Joint Investment Pvt. Ltd., vs Commissioner of Income Tax reported as 372 ITR 694 (Del) submitted that the disallowance under said provisions cannot exceed to the actual

exempt income claim by the assessee for the relevant financial period. Further placing copy of the order dated 30.07.2021 ITAT Delhi Bench in assessee's own appeal for A.Y. 2013-14 ITA No. 4553/Del/2017 and submitted that the Tribunal in the identical facts and circumstances has held that no disallowance is called for in absence of exempt income earned claimed by the assessee dismissing the appeal and ground no. 2 of the revenue. Therefore the Ld. CIT(A) was right in restricting the disallowance to the exempt income of the assessee.

6. On careful consideration of rival submissions we respectfully note that in the case of Joint Investment Pvt. Ltd. vs Commissioner of Income Tax (supra) Their Lordship speaking for jurisdictional High Court has held that the disallowance u/s. 14A r.w.r. 8D of the Rules cannot be more than the exempt income claimed by the assessee. From the relevant part of first appellate order para 7 to 7.3.2 we observed that the Ld. CIT(A) has followed the order of Hon'ble Punjab & Haryana High Court in the case of PCIT vs State Bank of India to hold that the amount of disallowance u/s. 14A is to be restricted to the exempt income claim by the assessee and not

a higher figure. The proposition rendered by Hon'ble jurisdictional High Court in the case of Chem Investment also rendered similar proposition which is squarely applicable to the before us in favour of the assessee. Therefore we are unable to see any valid reason to interfere with the findings arrived by the Ld. CIT(A) while restricting the disallowance to Rs. 2,65,74,425/- that is to the exempt income claimed by the assessee. Therefore sole ground of revenue being devoid of merits is dismissed.

10. In the result appeal of the revenue is dismissed.

Order pronounced in the open court on 13.02.2023.

Sd/-

(B.R.R. KUMAR)
ACCOUNTANT MEMBER

Sd/-

(CHANDRA MOHAN GARG)
JUDICIAL MEMBER

Dated: 13th February, 2023.

NV/-

Copy forwarded to :

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR