

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH : H : DELHI

BEFORE SHRI SAKTIJIT DEY, JUDICIAL MEMBER
AND
SHRI M. BALAGANESH, ACCOUNTANT MEMBER

ITA No.1293/Del/2021
Assessment Year: 2017-18

SKG Engineering Pvt. Ltd.,
Gripwel House, Block-5,
Sector-C 6&7,
LSC Vasant Kunj,
New Delhi – 110 070.

Vs DCIT,
Circle 23(2),
New Delhi.

PAN: AAACS3743F

(Applicant)

(Respondent)

Assessee by	:	Shri A.T. Panda, Advocate
Revenue by	:	Ms Sapna Bhatia, CIT-DR
Date of Hearing	:	02.05.2023
Date of Pronouncement	:	09.05.2023

ORDER

PER M. BALAGANESH, AM:

This appeal in ITA No.1293/Del/2021 for AY 2017-18 arises out of the order of the National Faceless Appeal Centre (NFAC), Delhi, in DIN & Order No.ITBA/NFAC/S/250/2021-22/1034916910(1) dated 17.08.2021 [hereinafter referred to as 'Id. CIT(A)', in short] against the order of assessment passed u/s 143(3) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated

12.12.2019 by the Id. Income-tax Officer, Circle 23(2), Delhi (hereinafter referred to as 'Id. AO').

2. The only issue to be decided in this appeal is as to whether the Id.CIT(A) was justified in confirming the disallowance made u/s14A of the Act r.w.r 8D of the Income-tax Rules, 1962 (hereinafter referred to as 'the Rules' in short) in the sum of Rs.9,22,232/- in the facts and circumstances of the case.

3. We have heard the rival submissions and perused the material available on record. It is not in dispute that the assessee had earned exempt dividend income in the sum of Rs.43,73,129/-. The assessee had not disallowed any expenses u/s 14A of the Act for the purpose of earning exempt income. Accordingly, the Id. AO directly proceeded to apply the computation mechanism provided in the revised Rule 8D(2) of the Rules and made disallowance of Rs.9,22,232/- computed @ 1% of average value of investments. This action by the Id. AO was upheld by the Id.CIT(A). We find that the Id. AR had placed on record the paper book containing computation of income together with the balance sheet of the assessee company. From the perusal of the computation of income and the Profit & Loss Account of the assessee, we find that the total expenses debited in the Profit & Loss Account during the year is Rs.60,49,763/-. Out of this sum, the assessee had practically disallowed all the expenses except a sum of Rs.8,74,348/- which was claimed as deduction under the head 'Other sources' against the taxable interest income and redemption premium from Reliance. This sum of Rs.8,74,348/- represents management fees of

Rs.7,78,022/- and other expenses – RYM – amounting to Rs.96,327/-. The Id. DR submitted that this sum would certainly have to be disallowed u/s 14A of the Act. We are unable to comprehend ourselves to agree to this contention of the Id. DR in view of the fact that under the head 'Other sources', the assessee had earned both taxable as well as exempt income. Hence, the said expenses claimed as deduction under the head 'Other sources' would be for earning both the taxable as well as exempt income. However, we are in agreement with the other main argument advanced by the Id. AR before us stating that the Id. AO had not recorded any satisfaction at all in terms of section 14A(3) of the Act r.w.r 8D of the Rules. The provisions of section 14A(3) of the Act mandates the Id. AO to arrive at an objective satisfaction with cogent reasons as to why the claim of the assessee that no expenses were incurred for earning exempt income is incorrect. This satisfaction is not discernible from the perusal of the assessment order. It is a fact that the Id. AO had directly resorted to applying the computation mechanism provided in Rule 8D of the Rules and proceeded to make disallowance u/s 14A of the Act. The disallowance made in this manner would have no legs to stand in the eyes of law. This view is further fortified by the decision of the Hon'ble Supreme Court in the case of Maxopp Investment Ltd., 402 ITR 640. Accordingly, we direct the Id. AO to delete the disallowance made u/s 14A of the Act for want of recording of satisfaction in terms of section 14A(3) of the Act. Accordingly, the ground raised by the assessee is allowed.

4. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 09.05.2023.

Sd/-

(SAKTIJIT DEY)
JUDICIAL MEMBER

Sd/-

(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated: 09th May, 2023.

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

Asstt. Registrar, ITAT, New Delhi