

आयकर अपीलीय अधिकरण "ए" न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH, PUNE

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER
AND
SHRI S.S. VISWANETHRA RAVI, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.403/PUN/2023
निर्धारण वर्ष / Assessment Year : 2017-18

Kirloskar Chillers Private Limited,
8th Floor, Cello Platina,
Fergusson College Road,
Shivajinagar, Pune – 411005

PAN : AABCK1730B

.....अपीलार्थी / Appellant

बनाम / V/s.

The Income Tax Officer,
Ward – 14(3), Pune

.....प्रत्यर्थी / Respondent

Assessee by : Shri Kiran B. Sanmane
Revenue by : Shri Ramnath P. Murkude

सुनवाई की तारीख / Date of Hearing : 15-05-2023
घोषणा की तारीख / Date of Pronouncement : 15-05-2023

आदेश / ORDER

PER S.S. VISWANETHRA RAVI, JM :

This appeal by the assessee against the order dated 14-02-2023 passed by the National Faceless Appeal Centre, Delhi ("NFAC") for assessment year 2017-18.

2. The assessee raised three grounds of appeal amongst which the only issue emanates for our consideration is as to whether the CIT(A), NFAC, Delhi justified in confirming the disallowance made u/s. 14A of the Act r.w. Rules 8D(2)(iii) of the Rules in the facts and circumstances of the case.

3. At the outset, we note that both the authorities fairly conceded that the NFAC, Delhi dismissed the appeal of assessee by placing reliance on the decision of Hon'ble Supreme Court in batch of cases, lead case being Checkmate Services P. Ltd. in Civil Appeal No. 2833 of 2016 which is not at all relevant to dismiss the grounds raised by the assessee against the order of AO in making disallowance under Rule 8D(2)(iii) of the Rules.

4. We note that the assessee claimed the dividend of Rs.59,47,564/- as exempt. The AO asked the assessee to submit the working of expenses incurred in earning such dividend income. The ld. AR submits that the assessee explained that it disallowed Rs.8,528/- on its own as expenditure incurred in earning the said dividend. The AO did not accept the same, proceeded to apply the methodology contemplated under Rule 8D(2)(iii) of the Rules and disallowed Rs.8,50,060/- in addition to the assessee's own disallowance. The same was challenged before the NFAC, Delhi. On perusal of the impugned order from page 18, we note that NFAC, Delhi instead of disposing the grounds challenged by the assessee against the disallowance made by the AO by applying Rule 8D(2)(iii), dismissed the appeal of assessee by applying decision of Hon'ble Supreme Court in batch of cases, lead case being Checkmate Services P. Ltd. (supra). Both the parties fairly conceded before us that there was no finding as to the grounds raised by the assessee in respect of disallowance made by the AO under Rule 8D(2)(iii) and prayed to remand the matter to the file of NFAC, Delhi for its fresh consideration. On perusal of the impugned order, we note that the decision of Hon'ble Supreme Court in batch of cases, lead case being Checkmate Services P. Ltd. (supra) was pleased to hold that delay in payment of Employee's contribution to the respective fund within due date of respective acts, is an income in the hands of the employer, as is admittedly was not the issued before the NFAC, Delhi. Therefore, taking

into consideration the submissions of ld. AR and ld. DR and in the facts and circumstances of the case, we deem it proper to remand the matter to the file of NFAC, Delhi to decide the issue raised by the assessee in accordance with law. Thus, the order passed by the NFAC, Dehi is set aside and the grounds raised by the assessee are allowed for statistical purpose. The assessee is liberty to file evidence, if any, in support of its claim.

5. In the result, the appeal of assessee is allowed for statistical purpose.

Order pronounced in the open court on 15th May, 2023.

Sd/-
(Inturi Rama Rao)
ACCOUNTANT MEMBER

Sd/-
(S.S. Viswanethra Ravi)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 15th May, 2023.
रवि

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The concerned CIT, Pune.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "ए" बेंच, पुणे / DR, ITAT, "A" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

//सत्यापित प्रति// True Copy//

आदेशानुसार / BY ORDER,

वरिष्ठ निजी सचिव / Sr. Private Secretary
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune