

आयकर अपीलीय अधिकरण “बी” न्यायपीठ चेन्नई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
“B” 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, JM AND
HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM

आयकर अपील सं./ ITA No.1749/Chny/2019
(निर्धारण वर्ष / Assessment Year: 2014-15)

Shri D. Sathyamoorthi New No.11, Old No.5, Bishop Wallers Avenue(West), Mylapore, Chennai-600 004.	बनम / Vs.	DCIT Corporate Circle-6(1), Chennai.
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. AASPS-3613-H		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थी की ओरसे/ Appellant by	:	Shri I.Dinesh (Advocate)-Ld.AR
प्रत्यर्थी की ओरसे/ Respondent by	:	Shri AR.V. Sreenivasan (Addl.CIT)-Ld. Sr. DR

सुनवाई की तारीख/ Date of Hearing	:	05-09-2023
घोषणा की तारीख / Date of Pronouncement	:	05-09-2023

आदेश / O R D E R

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by assessee for Assessment Year (AY) 2014-15 arises out of the order of learned Commissioner of Income Tax (Appeals)-15, Chennai [CIT(A)] dated 29-03-2019 in the matter of an assessment framed by Ld. Assessing Officer [AO] u/s. 143(3) of the Act on 24-06-2016. The grounds taken by the assessee read as under:-

“1.0 The order of the Commissioner of Income Tax (Appeals) - CIT in so far as it is held against the Appellant is erroneous, arbitrary, and unjust and is liable to be set aside.

2.1 The Commissioner of Income Tax erred in assuming that the assessee had invested out of his own funds as well as borrowed funds without verifying the materials on record

placed before the Assessing Officer as well C.I.T. establishing the utilization of the borrowed funds.

2.2 The Commissioner of Income Tax was wrong in applying Rule 8D that there are court decisions in which it has been held that the application of Rule 8D is mandatory.

2.3 The Commissioner of Income Tax was wrong in concluding that the assessee could not demonstrate in terms of accounts that in the year of investments in shares, the Appellant had surplus of own funds and the same was invested only out of his own surplus funds and not out of borrowed funds without appreciating the materials placed before the AO as well as the C.I.T. and in disregard of the submissions made.

2.4 The learned Commissioner relied on certain decisions which were rendered on its own facts and are not applicable to the facts of the present case. The learned CIT erred in not following the decisions cited by the Appellant, in particular the decision of the Bombay High Court in CIT vs HDFC Bank Limited (2014-49 Taxman.com 335).

As is evident, the sole issue in this appeal is disallowance u/s.14A.

2. The Ld. AR advanced arguments and submitted that own funds far exceed the investments made by the assessee and therefore, no interest disallowance could have been made in terms of decision of Hon'ble Apex Court in **South Indian Bank Ltd. Vs. CIT (2021) 130 Taxmann.com 178 (SC)**. The Ld. AR also placed on record alternative computations to show that considering only exempt income yielding investments, disallowance u/s 14A would be far less than suo-motu disallowance offered by the assessee. The Ld. Sr. DR supported the impugned orders and submitted that the assessee himself has computed disallowance as per Rule 8D but restricted the same which was not justified. Having heard rival submission and upon perusal of case records, our adjudication would be as under.

3. The impugned disallowance stems from the fact that during assessment proceedings, it transpired that the assessee computed disallowance as per Rule 8D r.w.s. 14A which worked out to Rs.83.58 Lacs. However, the assessee restricted the same to Rs.33.62 Lacs on the reasoning that expenditure after excluding STT and loss on currency

derivative was only Rs.33.62 Lacs. However, Ld. AO noted that the assessee claimed total expenditure of Rs.277.94 Lacs which includes STT of Rs.59.73 Lacs and interest of Rs.200.05 Lacs. The STT was disallowed only to the extent of Rs.31.20 Lacs and balance Rs.28.52 Lacs was allowed to the assessee. Similarly, out of interest of Rs.200.55 Lacs, an amount of Rs.47.77 Lacs was disallowed and balance Rs.152.78 Lacs was allowed to the assessee. Therefore, there was no logic in restricting the disallowance to Rs.33.62 Lacs. Accordingly, Ld. AO computed disallowance u/s.14A of Rs.83.58 Lacs. The Ld. CIT(A) confirmed the same, against which the assessee is in further appeal before us.

4. Upon perusal of assessee's Balance Sheet as placed on page no.4 of the paper-book, it could be seen that the only borrowing for the assessee are secured loans which are for specific purpose. The assessee has made investment of Rs.145.62 Crores as against capital of Rs.208.37 Crores. The funds of the assessee are mixed funds and unless the nexus of borrowing with exempt yielding investment is established, no interest disallowance could have been made. Another factor is that excluding those investments which have not yielded any exempt income during the year, the disallowance computed u/s 14A would be much less than the suo-motu disallowance of Rs.33.62 Lacs as already offered by the assessee in its computation of income. Therefore, the additional disallowance as made by Ld. AO is not sustainable. We direct Ld. AO to accept the disallowance as offered by the assessee in the computation of income.

5. The appeal stand allowed.

Order pronounced on 05th September, 2023.

Sd/-

(V. DURGA RAO)

न्यायिक सदस्य/JUDICIAL MEMBER

Sd/-

(MANOJ KUMAR AGGARWAL)

लेखासदस्य / ACCOUNTANT MEMBER

चेन्नई Chennai; दिनांक Dated : 05-09-2023
DS

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF