

IN THE INCOME TAX APPELLATE TRIBUNAL
Mumbai "E" Bench, Mumbai.

Before Shri B.R. Baskaran (AM) & Shri Aby T. Varkey (JM)

I.T.A. No. 2101/Mum/2023 (A.Y. 2018-19)

Teamlease Digital Pvt. Ltd. 6 th Floor, BMTC Commercial Complex 80 FT Road, Bangalore South Bangalore, Karnataka Pincode No. 560095. PAN : AAFCT8257N (Appellant)	Vs.	National E- assessment Centre New Delhi/ DCIT-14(1)(2) Mumbai. (Respondent)
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Assessee by	Ms. Dinkle Hariya & Ms. Rashmi Vyas
Department by	Shri P.D. Chougule
Date of Hearing	06.02.2024
Date of Pronouncement	07.02.2024

ORDER

Per B.R.Baskaran (AM) :-

The assessee has filed this appeal challenging the order dated 5.4.2023 passed by the learned CIT(A), National Faceless Appeal Centre, Delhi and it relates to A.Y. 2018-19. The only issue urged in this appeal is related to the disallowance under section 14A of the I.T. Act.

2. We heard the parties and perused the record. During the course of the assessment proceedings, the Assessing Officer noticed that the assessee has invested a sum of Rs. 54.10 crores in the following companies:-

- a) M/s. Keystone Business Solutions P. Ltd. : Rs. 8.20 crores
- b) M/s. Evolve Technologies & Services P. Ltd. : Rs. 45.90 crores
Rs. 54.10 crores

The AO noticed that the assessee did not make any disallowance under section 14A of the Act. Even though the assessee submitted that it has not received any exempt income and hence no disallowance is called for, yet the Assessing Officer took the view that the disallowance has to be made under section 14A of the Act. Accordingly, he computed the disallowance at Rs.44,41,305/- and added the same to the total income of the assessee.

3. In the appellate proceedings, the learned CIT(A) dismissed the appeal of the assessee by holding that the amendment made in section 14A of the I.T. Act by the Finance Act, 2022 with effect from 1.4.2022 is retrospective in nature and shall apply to the year under consideration. The above said amendment mentioned that the provisions of section 14A of the Act shall apply and shall be deemed to have been always applied where exempt income has not accrued or arisen or has not received during the previous years. The learned CIT(A) also took support of the decision rendered by the Guwahati Bench of the ITAT in the case of ACIT Vs. Williamson Finance Services Limited (ITA No. 159/Gau/ 2019 dated 6.7.2022) to vindicate his decision. The assessee is aggrieved.

4. The Ld A.R submitted that the amendment made in sec.14A of the Act by Finance Act, 2022 will take effective from 1.4.2022 only and cannot be presumed to have retrospective effect. She submitted that it was so held by Hon'ble Delhi High Court in the case of PCIT vs. Era Infrastructure (India) Ltd (448 ITR 674). The Learned AR further submitted that no disallowance under section 14A is required to be made when the assessee has not received any exempt income.

5. We heard learned DR and perused the record. We notice that the Hon'ble Delhi High Court has held in the case of PCIT Vs. Era Infrastructure (India) Ltd. (supra) that the amendment in section 14A of the Act cannot have retrospective operation. In view of the above said decision rendered by a higher judicial forum, the learned CIT(A) could not have placed his reliance

on the decision rendered by Guwahati bench of ITAT. Accordingly, his decision is liable to be set aside.

6. Further, uncontroverted fact in this case is that the assessee has not earned any exempt income. The Hon'ble Madras High Court in the case of CIT Vs. Chettinad Logistics Pvt. Ltd. (2017) 80 taxman.com 221 (Mad) has held that no disallowance under section 14A of the Act shall be made when the assessee has not received any exempt dividend income. Hence, in the facts of the present case, no disallowance u/s 14A is called for. Accordingly we set aside the order passed by the learned CIT(A) and direct the Assessing Officer to delete the disallowance under section 14A of the Act.

7. In the result, appeal filed by the assessee is allowed.

Order pronounced on 7.2.2024.

Sd/-
(Aby T. Varkey)
Judicial Member

Sd/-
(B.R. Baskaran)
Accountant Member

Mumbai.; Dated : 07/02/2024

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT
5. DR, ITAT, Mumbai.
6. Guard File.

//True Copy//

BY ORDER,

(Assistant Registrar)
ITAT, Mumbai

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