

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ, चण्डीगढ़
**IN THE INCOME TAX APPELLATE TRIBUNAL
DIVISION BENCH, "B" CHANDIGARH**

**BEFORE SHRI SANJAY GARG, JUDICIAL MEMBER AND
SHRI VIKRAM SINGH YADAV, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No 307/CHD/2023

निर्धारण वर्ष / Assessment Year : 2018-19

M/s Trident Group Ltd., SCO 20-21, Sector 9-D, Chandigarh.	Vs	The Pr.CIT, Chandigarh.
स्थायीलेखासं./PAN NO: AAECM1012H		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by: Shri Ashwani Kumar, CA and
Shri Aditya Kumar, CA

राजस्व की ओर से/ Revenue by : Smt. Kusum Bansal, CIT DR

सुनवाई की तारीख/Date of Hearing : 14.02.2024

उदघोषणा की तारीख/Date of Pronouncement : 27.02.2024

आदेश/Order

Per Sanjay Garg, Judicial Member:

The present appeal has been preferred by the assessee against the revision order of the ld. Principal Commissioner of income Tax (in short 'the ld.PCIT') dated 27.03.2023 u/s 263 of the Income Tax Act, 1961 (in short 'the Act') pertaining to 2018-19 assessment year.

2. The brief facts of the case are that the ld.PCIT noted from the assessment records that the investments of the assessee company stood at Rs.1,24,76,60,685/- as on

31.03.2018, income from which was exempt from taxation. He further noted that for the purpose of disallowance u/s 14A in relation to expenditure incurred for earning of tax exempt income, the assessee had suo-moto disallowed a sum of Rs.14,06,578/- only whereas as per the formula prescribed under Rule 8D of the Income Tax Rules, the total disallowance should have been at Rs.1,24,76,60,685/-. He, therefore, show caused the assessee in this respect.

3. In reply, the assessee submitted that as per the provisions of Section 14A of the Income Tax Act, the assessee had given the suo-moto computation of disallowance u/s 14A of the Income Tax Act. Further referring to the provisions of Section 14A of the Income Tax Act, it was submitted that recourse to formula prescribed under Rule 8D could have been made if the A.O, having regard to the accounts of the assessee, was not satisfied with the suo-moto disallowance computed by the assessee. It was further submitted that the details of computation of disallowance was duly submitted before the AO which was also part of the audit report. The AO considered and accepted the same. Therefore, since the AO has not recorded any satisfaction that the computation made by the assessee was wrong or not justified, therefore, the recourse to the formula prescribed under Rule 8D of the IT Rules could not

have been made. It was also submitted that the assessee did not incur any interest expenditure on the investments as own funds of the assessee were used for the purpose of investment. The only disallowance made was in respect of the administrative expenditure which were computed by the assessee at Rs.14,06,651/- which were duly offered for taxation.

4. The ld.PCIT, however, held that the AO had not made requisite enquiries, therefore, the order of the AO was erroneous in so far as it was prejudicial to the interest of Revenue. He, therefore, set aside the assessment order with a direction to the AO to re-examine and re-enquire into the facts/details of investment/interest expenses made by the assessee company and its claim of earning of no exempt income, as also the computation of administrative expenses @ 1% of the average investment u/s 14A of the Income Tax Act read with Rule 8D of the Income Tax Rules. He further directed that the AO will allow the assessee opportunity of being heard and make submissions and then to compute the disallowance in line with the provisions of Section 14A read with Rule 8D of the Income Tax Rules.

5. Being aggrieved by the said order of the ld.PCIT, the assessee has come in appeal before us.

6. We have heard the rival contentions and gone through the record. We find that the ld.PCIT in the entire order has made general observations without considering the facts of the case.

7. After getting the reply of the assessee, the ld.PCIT firstly proceeded on the footing that the assessee has claimed that it had not earned any exempt income, however, there is no such claim of the assessee that it had not earned any tax exempt income. The ld.PCIT has made discussion running into several pages on this issue holding that if the assessee had not earned any exempt income, the disallowance u/s 14A was attracted, however, we find that this issue does not germane from the assessment order as the assessee has not claimed that it has not earned any exempt income. The ld. PCIT further observed in para 7 of the impugned order that assessment order was prima-facie erroneous and prejudicial to the interests of the Revenue as the order has been passed without applying the formula of disallowing interest payment proportionate to those applicable on exempt income under Rule 8D read with Section 14A of the Income Tax Act. It is to be noted that since the assessee had not made any interest expenditure therefore, the question of disallowance of interest u/s 14A did not arise in this case. Moreover, as per the provisions of

Section 14A of the Act, the recourse to Rule 8D could have been made only if the AO was not satisfied with the suo-moto disallowance offered by the assessee. In this case, the ld. PCIT has not given any finding as to any discrepancy or defect in the suo-moto computation of disallowance made by the assessee. In the entire order, the ld. PCIT has made general observations which are not even applicable to many of the facts of the case of the assessee. Therefore, the aforesaid order of the ld. PCIT is not sustainable in the eyes of law and the same is hereby quashed.

8. In the result, appeal of the assessee stands allowed.

Order pronounced on 27th February, 2024.

Sd/-
(VIKRAM SINGH YADAV)
ACCOUNTANT MEMBER

Sd/-
(SANJAY GARG)
JUDICIAL MEMBER

“Poonam”

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

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
5. गार्डफाईल/ Guard File

आदेशानुसार/ By order,
सहायक पंजीकार/ Assistant Registrar