

आयकर अपीलीय अधिकरण 'ए' न्यायपीठ चेन्नई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH, CHENNAI

मजनीय श्री मनोज कुमार अग्रवाल, लेखक सदस्य एवं
मजनीय श्री मनु कुमार गिरि, न्यायिक सदस्य के समक्ष।
BEFORE HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM
AND HON'BLE SHRI MANU KUMAR GIRI, JM

आयकर अपील सं. ITA No.1395/Chny/2023
(निर्धारण वर्ष / Assessment Year: 2017-18)

M/s. Rajalakshmi Renewables Private Ltd. #66, Kurunji, New Avadi Road, Kilpauk, Chennai-600 010.	बनम/ Vs.	ITO Corporate Ward-5(4) Chennai.
स्थायी लेखासं./जी आइ आर सं./PAN/GIR No. AABCS-0503-N		
(पीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थी की ओरसे/ Appellant by	:	Shri N. Arjun Raj (Advocate)-Ld. AR
प्रत्यर्थी की ओरसे/ Respondent by	:	Shri AR V Sreenivasan (Addl.CIT)-Ld. DR

सुनवाई की तारीख/ Date of Hearing	:	09-05-2024
घोषणा की तारीख / Date of Pronouncement	:	13-05-2024

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by assessee for Assessment Year (AY) 2017-18 arises out of the order of learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [CIT(A)] dated 12-09-2023 in the matter of an assessment framed by Ld. Assessing Officer [AO] u/s. 143(3) of the Act on 29-10-2019. The sole grievance of the assessee is disallowance of interest of Rs.96.63 Lacs u/s.40(a)(ia) for non-deduction of tax at source u/s.194A. The registry has noted delay of 18 days in the appeal, the condonation of which has

been sought by Ld. AR. Considering the period of delay, the delay is condoned.

2. From case records, it emerges that the assessee's case was selected for 'limited scrutiny' vide notice u/s 143(2) dated 23-08-2018, a copy of which is on record. The point to be covered therein was to examine 'expenses incurred for earning exempt income'. The case was subsequently transferred from corporate circle 6(1) to Corporate Ward 5(4) as per intimation dated 05-09-2018 and a fresh notice u/s 143(2) was issued to examine the said issue. After considering assessee's submissions, Ld. AO made assessment wherein Ld. AO proposed penalty u/s 271B, made disallowance u/s 40(a)(ia) as well as another disallowance u/s 14A. Upon further appeal, the assessee did not make any effective representation.

3. The Ld. CIT(A) confirmed disallowance u/s 40(a)(ia) on the ground that the assessee failed to furnish the copies of Form 26A. The disallowance u/s 14A was also confirmed. The ground relating to initiation of penalty u/s 271B was dismissed. Aggrieved, the assessee is in further appeal before us.

4. The Ld. AR sought another opportunity of hearing before Ld. CIT(A) and also submitted that the only issue to be examined by Ld. AO in 'limited scrutiny' was to determine 'expenses incurred for earning exempt income' and nothing beyond. The impugned disallowance u/s 40(a)(ia) as well as initiation of penalty u/s 271B was beyond the scope of limited scrutiny in terms of CBDT instruction No.5/2016 dated 14-07-2016 as well as Circular F.No.225/402/2018/ITA.II dated 28-11-2018. The Ld. AR also submitted that a specific ground was raised in that respect before Ld. CIT(A) which has not been adjudicated. It has also

been submitted that the assessee is in a position to submit copies of Form 26A.

5. Accepting the various arguments of Ld. AR, keeping all the issues open, we remit the appeal back to the file of Ld. CIT(A) for de novo adjudication after affording reasonable opportunity of hearing to the assessee. The assessee is directed to substantiate its stand forthwith.

6. The appeal stand allowed for statistical purposes.

Order pronounced on 13th May, 2024

Sd/- (MANU KUMAR GIRI) न्यायिक सदस्य / JUDICIAL MEMBER	Sd/- (MANOJ KUMAR AGGARWAL) लेखक सदस्य / ACCOUNTANT MEMBER
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चेन्नई Chennai; दिनांक Dated : 13-05-2024
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आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

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