

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "F", MUMBAI**

**BEFORE SHRI B.R. BASKARAN, ACCOUNTANT MEMBER AND
MS. KAVITHA RAJAGOPAL, JUDICIAL MEMBER**

ITA NO. 4721/MUM/2023 : **A.Y : 2013-14**

Smita Conductors Private Limited Vs. Dy. Commissioner of Income
1402/03, Raheja Centre, Free Tax-3(3)(2), Mumbai.
Press Road, Nariman Point, (Respondent)
Mumbai 400 021.
PAN : AAACS5379K (Appellant)

Appellant by : Shri Sunil Hirawat
Respondent by : Ms. Rajeshwari Menon

Date of Hearing : 09/05/2024
Date of Pronouncement : 10/05/2024

ORDER

PER B.R. BASKARAN, ACCOUNTANT MEMBER :

The appeal of the assessee is directed against the order dated 05-12-2023 passed by Ld CIT(A), NFAC, Delhi and it relates to the assessment year 2013-14. The issues contested in this appeal relate to the expenses relating to exempt income, i.e., disallowance made u/s 14A of the Act under normal provisions of the Act and also the addition made while computing book profit u/s 115JB of the Act.

2. The assessee company is engaged in the business of manufacture and sale of ACSR & All Aluminium conductors. During the year under consideration, the assessee had earned dividend income of Rs.2,08,60,435/- and claimed the same as exempt. The assessee disallowed a sum of Rs.5,77,116/- u/s 14A of the Act. The AO, however, computed the disallowance as per Rule 8D of I T Rules. Accordingly, he computed

disallowance at Rs.52,05,760/-, which consisted of interest disallowance of Rs.23,99,535/- under Rule 8D(2)(ii) and expenditure disallowance of Rs.28,06,225/- under Rule 8D(2)(iii) of I T Rules. Accordingly, the AO added the difference amount of Rs.46,28,644/- (Rs.52,05,760/- (-) Rs.5,77,116/-) while computing total income under normal provisions of the Act. The assessee had added the very same amount of Rs.5,77,116/- while computing book profit u/s 115JB of the Act. The AO also enhanced the amount to be added under clause (f) of Explanation 1 to sec.115JB of the Act by the above said amount of Rs.46,28,644/- while computing book profit u/s 115JB of the Act. The Ld CIT(A) also confirmed the same.

3. The Ld A.R submitted that the own funds available with the assessee is more than the value of investments and hence no disallowance out of interest expenditure u/r 8D(2)(ii) of I T Rules is called for. With regard to the expenditure disallowance, the Ld A.R submitted that the assessee has computed the same scientifically at Rs.5,77,116/-. He submitted that the assessee had computed disallowance in the same manner in the past also. He submitted that the disallowance so computed by the assessee has been upheld by the co-ordinate bench of Tribunal in AY 2012-13 (ITA No.3678/Mum/2016 dated 26-02-2018). In AY 2008-09 (ITA No.158/Mum/2013 dated 20-01-2017), the Tribunal sustained addition to a lump sum of Rs.25,000/- considering the fact that major portion of investments were made by the assessee in mutual funds. The Ld A.R further submitted that the assessee had added Rs.5,77,116/- while computing book profit u/s 115JB of the Act and the same would meet the requirements of clause (f) of Explanation 1 to sec. 115JB of the Act.

4. The Ld D.R supported the order passed by the Ld CIT(A).

5. We have heard rival contentions and perused the record. The Ld A.R took us through the Balance Sheet of the assessee. We notice that the own funds available with the assessee as on 1.4.2012 and 31.3.2012 were Rs.117.17 crores and Rs.162.78 crores respectively, while the value of investments held

by the assessee on those dates was Rs.43.12 crores and Rs.105.93 crores respectively. Thus we notice that the own funds available with the assessee were more than the value of investments and hence no disallowance out of interest expenditure is called for as per the decision rendered by Hon'ble jurisdictional Bombay High Court in the case of HDFC Bank Ltd (366 ITR 505)(Bom). Accordingly, we set aside the order passed by Ld CIT(A) on this issue and direct the AO to delete the disallowance of interest expenditure made u/r 8D(2)(ii) of I T Rules.

6. With regard to the disallowance of expenditure made u/s Rule 8D(2)(iii) of I T Rules, we notice from the Balance sheet that the assessee is holding following investments:-

(A) Non-Current Investments:- (Rupees in lakhs)

Investment in property	6.47	
Investment in associate concerns	219.20	
Investment in other companies	3.41	
Investment in mutual funds	2,609.12	
Investment in partnership firm	0.70	
	-----	2838.90

(B) Current investments:-

Investment in mutual funds (15 items)	7755.59	
	-----	10594.49
		=====

We notice most of the non-current investments have been brought forward from earlier year and further current investments consisted of investments made in 15 types of units of mutual fund. Thus, we notice that the investment activity of the assessee is minimal and hence the disallowance of Rs.5,77,116/- computed by the assessee on a scientific basis may be accepted in the facts and circumstances of the case. For the same reason, we are of the view that the addition of Rs.5,77,116/- made by the assessee under clause (f) of Explanation 1 to sec.115JB of the Act for computing book profit would meet the requirements of the said section. Accordingly, we set aside the orders

passed by Ld CIT(A) on both these issues and direct the AO to accept the disallowance made by the assessee both u/s 14A and 115JB of the Act.

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

Order pronounced in the open court on 10th May, 2024.

Sd/-
(KAVITHA RAJAGOPAL)
JUDICIAL MEMBER

Sd/-
(B.R. BASKARAN)
ACCOUNTANT MEMBER

Mumbai, Date : 10th May, 2024

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Copy to :

- 1) The Applicant
- 2) The Respondent
- 3) The CIT concerned
- 4) The D.R, "F" Bench, Mumbai
- 5) Guard file

By Order

Dy./Asstt. Registrar
I.T.A.T, Mumbai