

**आयकर अपीलीय अधिकरण, कोलकाता पीठ, कोलकाता**  
**IN THE INCOME TAX APPELLATE TRIBUNAL "C" BENCH KOLKATA**

**Before Shri Sanjay Garg, Judicial Member and Shri Rakesh Mishra, Accountant Member**

**I.T.A. No.1237/Kol/2019**  
Assessment Year: 2014-15

**West Bengal Industrial Infrastructure Development Corporation.....Appellant**

Sector-DJ-10, Sector-II,  
Salt Lake City, Kolkata – 700091.

**[PAN: AAACW3073C]**

vs.

**PCIT, Kolkata-2, Kolkata..... Respondent**

**Appearances by:**

None appeared on behalf of the assessee.

Shri Rakesh Kumar Das, CIT- DR, appeared on behalf of the Revenue.

Date of concluding the hearing : July 09, 2024

Date of pronouncing the order : October 08, 2024

**आदेश / ORDER**

**संजय गर्ग, न्यायिक सदस्य द्वारा / Per Sanjay Garg, Judicial Member:**

The present appeal has been preferred by the assessee against the revision order dated 27.03.2019 passed by the Principal Commissioner of Income Tax-2, Kolkata [hereinafter referred to as 'PCIT'] u/s 263 of the Income Tax Act (hereinafter referred to as the 'Act').

2. No one has put in appearance on behalf of the assessee despite notice, therefore, we proceed to decide the appeal after hearing the ld. DR and going through the record.

3. A perusal of the impugned order of the ld. PCIT passed u/s 263 of the Act reveals that the ld. PCIT has observed that the average investment in shares of the assessee during the year under consideration was at Rs.59,21,80,820/-. He held that the assessee might have incurred expenditure in making the aforesaid huge investments and therefore, the provisions of section 14A of the Act

r.w.r. 8D(2)(iii) of the Income Tax Rules were applicable and held that 0.5% of the average investment would come to Rs.29,60,904/-, which was required to be disallowed. On being show-caused in this respect, the assessee explained that the alleged investment was, in fact, not actual investment made by the assessee. That, in fact, an amount of Rs.58,97,80,820/- had been the balance of loan outstanding towards Haldia Petrochemical Ltd. ('HPL'). Due to the inability of HPL to repay the outstanding loan to the assessee, the Govt. of West Bengal directed the assessee corporation, which is a Govt. organisation, for treating the balance of outstanding loan as preference shares held in HPL. The ld. PCIT called a report in this respect from the concerned Assessing Officer, whereupon, a letter was issued to HPL for clarification. The Assessing Officer in his letter mentioned that HPL had allotted preference shares to the assessee on 14.10.2004. The ld. PCIT, however, noted that it was not clear as to whether those shares were in the nature of conversion of old loans or not. He further held that in any case, the fact would remain that the assessee had an investment in preference shares amounting to Rs.58,97,80,820/- during the year and therefore, disallowance as per Rule 8D(2)(iii) was attracted. He accordingly held that the order of the Assessing Officer was erroneous and prejudicial to the interest of the revenue.

4. We have heard the ld. DR and gone through the record. In this case, it has mentioned by the ld. PCIT, himself, that as per the Assessing Officer, the aforesaid preference shares were allotted to the assessee on 14.10.2004, therefore, it is apparent from the record that no new investments were made by the assessee during the year under consideration. Moreover, the assessee has explained that as per the directions of the Govt., the assessee-corporation has been asked to treat the outstanding loans towards HPL, which is again a Govt. organisation, as preferential shares. Under the circumstances, when it

is apparent that the assessee did not incur any expenditure during the year for making the investment in question, therefore, no disallowance u/s 14A of the Act r.w.r. 8D(2)(iii) of the Income Tax Rules was attracted in this case. Moreover, considering the facts and circumstances of the case, it cannot be said that the order of the Assessing Officer was erroneous. In view of this, the impugned order of the Id. PCIT is not sustainable and the same is quashed.

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

***Kolkata, the 8<sup>th</sup> October, 2024.***

Sd/-  
**[Rakesh Mishra]**  
लेखा सदस्य/Accountant Member

Sd/-  
**[Sanjay Garg]**  
न्यायिक सदस्य/Judicial Member

Dated: 08.10.2024.

RS

*Copy of the order forwarded to:*

1. West Bengal Industrial Infrastructure Development Corporation
2. PCIT, Kolkata-2, Kolkata
3. CIT (A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches