

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH: CHENNAI

श्री महावीर सिंह, उपाध्यक्ष एवं श्री जगदीश, लेखासदस्य के समक्ष
BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
SHRI JAGADISH, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.1209/Chny/2024
निर्धारण वर्ष /Assessment Year: 2012-13

The Asst. Commissioner of
Income Tax,
Corporate circle-3(1),
Chennai.

Vs. Tamilnadu Industrial Development
Corporation Ltd.,
19A, Rukmini Lakshmiapati Road,
Egmore, Chennai-600008.
[PAN: AACT 3409P]

(अपीलार्थी/**Appellant**)

(प्रत्यर्थी/**Respondent**)

अपीलार्थी की ओर से/ Assessee by
प्रत्यर्थी की ओर से /Respondent by

: Shri R. Vijayaraghavan, Advocate
: Shri R. Clement Ramesh Kumar. CIT

सुनवाई की तारीख/Date of Hearing

: 16.10.2024

घोषणा की तारीख /Date of Pronouncement

: 22.10.2024

आदेश / ORDER

PER JAGADISH, A.M :

Aforesaid appeal filed by the Revenue is against the order of Learned Commissioner of Income Tax, National Faceless Appeal Centre (NFAC), Delhi [hereinafter "CIT(A)"] dated 15.02.2024.

2. There is a delay of 10 days in filing the appeal by the Revenue. The Revenue has filed condonation petition stating the reasons for delay in filing the appeal. We have considered the petition of delay in

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filing the appeal and satisfied that there was sufficient cause for not filing the appeal within the prescribed time limit. Hence, the delay is condoned.

3. The assessee is wholly owned Government of Tamil Nadu Enterprise with main object to promote and develop industries in the State of Tamil Nadu. During the year, the assessee has received dividend income of Rs. 38,76,11,013/- and disallowed amount of Rs.3,95,85,203/- as expenditure relating to earn exempt income u/s. 14A of the Income-tax Act, 1961 (hereinafter "the Act") in the return of income. However, the A.O invoking Rule 8D of the Income Tax Rules, 1962 (hereinafter "the Rules") has computed the disallowance at Rs. 14,34,85,389/- making addition of Rs 10,39,00180/-. On appeal, the Ld. CIT(A) re-computed the disallowance as per Rule 8D of the Rules at Rs. 10,44,52,355, sustaining addition to Rs 6,48,67,152/-. The Ld. CIT(A) while computing the disallowance as per Rule 8D(2) of the Rules has considered only those investments from which the assessee derived exempted income rather than entire value of investment while computing the disallowance under second limb of Rule 8D(2) of the Rules relying on the decision of Hon'ble Delhi High Court in the case of Times Internet Ltd. [2023] 156 taxmann.com 577 (Del.), Cargo

Motors (P.) Ltd. [2022] 145 taxmann.com 641 (Del.) and PCIT vs. Caraf Builders & Constructions (P.) Ltd. [2019] 101 taxmann.com 167 (Del.). Aggrieved, the Department is in appeal against considering only the average value of those investments which yielded exempt income, relying on the explanation inserted to section 14A of the Act during Finance Act, 2022.

4. The Ld. Departmental Representative (DR) has argued that Section 14A of the Act has been amended by adding explanation to clarify that all investments are to be considered even if it has not yielded exempt income during the year.. The Ld. DR has argued that the explanation is clarificatory in nature and is deemed to have always applied in a case where the income not forming part of total income under the Act has not accrued or arising or has not been received during the previous years relevant to A.Y therefore, the Ld. CIT(A) should have confirmed the computation made by A.O, where all investments has been considered to make disallowances under Rule 8D(2) of the Rules.

6. The Ld. Authorized Representative (A.R) of the assessee, on the other hand, has submitted that Explanation 2 to Section 14A of the Act is not applicable in the case of the assessee for A.Y 2012-13 as it has been held by Hon'ble Delhi High Court in the case of Times Internet Ltd. [2023] 156 taxmann.com 577 (Del.), Cargo Motors (P.) Ltd. [2022] 145 taxmann.com 641 (Del.) and PCIT vs. Caraf Builders & Constructions (P.) Ltd. [2019] 101 taxmann.com 167 (Del.). that amendment made to Section 14A of the Act will take effect prospectively from 1st April, 2022 and will apply in relation to the A.Y 2023-24 in subsequent A.Y.

7. We have heard the rival submissions, and perused the materials available on record. The Ld. CIT(A) has computed the disallowances as per Rule 8D of the Rules, taking the average of only those investments which has yielded exempt income during the year as per judicial pronouncements. The Ld DR has relied upon explanation in 14A brought in by Finance Act 2022. It has been held by the Honorable Delhi High Court in the case of PCIT vs. ERA Infrastructure (India) Ltd 448 ITR 0674 (Delhi) , that amendment made to section 14A will take effect prospectively from 1st April 2022 and will apply in relation to the assessment year 2023-24 and subsequent year . In

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view of above we do not find any infirmity in the order of Ld CIT(A) and uphold the same .

8. In the result, the appeal filed by the Revenue is dismissed.

Order pronounced on 22nd October, 2024.

Sd/-
(महवीर सिंह)
(Mahavir Singh)
उपध्यक्ष / Vice President

Sd/-
(जगदीश)
(Jagadish)
लेखा सदस्य / Accountant Member

चेन्नई/Chennai, दिनांक/Dated: 22nd October, 2024.
EDN/-

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT, Chennai
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF