

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI "SMC" BENCH : MUMBAI

BEFORE SHRI B.R. BASKARAN, ACCOUNTANT MEMBER
AND
SHRI RAJ KUMAR CHAUHAN, JUDICIAL MEMBER

ITA No. 4875/Mum/2024
Assessment Year 2018-19

Wind World Wind Farms (Sai) P Limited, A-9, Wind World Tower, Veera Desai Road, Andheri (W), Mumbai PAN : AABCE5227D	vs.	DCIT, Circle-3(3)(1), Aayakar Bhavan, M.K. Road, Mumbai
(Appellant)		(Respondent)

Assessee by : MS. Simran Dhawan
Revenue by : Shri Umesh Chandra Sinha

Date of Hearing : 12/11/2024
Date of Pronouncement : 14/11/2024

PER B.R. BASKARAN, A.M :

The assessee has filed this appeal challenging the order dt.24-07-2024 passed by the Ld. Commissioner of Income Tax (Appeals)-National Faceless Appeal Centre (NFAC), Delhi [‘Ld.CIT(A)’] and it relates to AY. 2018-19. The only issue urged in this appeal relates to addition made by the AOu/s.14A of the Income Tax Act, 1961 (‘the Act’).

2. The assessee is engaged in the business of generation of wind energy and dealing in power generation equipment. During the year under consideration, the assessee did not earn any exempt income. However, it has voluntarily disallowed a sum of Rs.1,13,000/- u/s.14A of the Act. The AO noticed that the assessee has made investment in his subsidiary-company to the tune of Rs. 2,26,00,000/-. Accordingly, he computed disallowance u/s.14A of the Act @1% of the value of the investment, which worked out to Rs. 2,26,000/-. Accordingly, the AO made addition of the difference amount of Rs. 1,13,000/- [i.e., Rs. 2,26,000/- (-) Rs. 1,13,000/-] to the total income of the assessee. The Ld.CIT(A) also confirmed the same.

3. The Ld.AR placed reliance on the decision rendered by the Co-ordinate Bench of the Tribunal in the case of Prime Property Development Corporation Ltd., vs. ACIT [2024] (159 taxmann.com 1581) (Mumbai – Trib.) and submitted that the disallowance u/s.14A of the Act is not required to be made when the assessee has not earned any exempt income. Accordingly, the Ld.AR submitted that the addition of Rs. 1,13,000/- made by the AO may kindly be deleted.

4. We heard the Ld.DR and perused the record. The undisputed fact would remain that the assessee has not earned any exempt income. The Hon'ble Madras High Court in the case of CIT vs. Chettinad Logistics (P.) Ltd., (2017) [80 taxmann.com 221] has held that the disallowance u/s.14A of the Act cannot be made when the assessee has not earned any exempt income. The above said decision was followed by the Co-ordinate Bench of the Tribunal in the case of Prime Property Development Corporation Ltd., (supra). Accordingly, we find merit in the contentions of the Ld.AR. Accordingly, we set aside the order

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passed by the Ld.CIT(A) and direct the AO to delete the addition of Rs. 1,13,000/- made by the AO u/s.14A of the Act.

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

Order pronounced in the open court on 14-11-2024

Sd/-
[RAJ KUMAR CHAUHAN]
JUDICIAL MEMBER

Sd/-
[B.R. BASKARAN]
ACCOUNTANT MEMBER

Mumbai,
Dated: 14-11-2024

TNMM

Copy to :

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

By Order

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