

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

महनीय श्री मनोज कुमार अग्रवाल, लेखक सदस्य एवं
महनीय 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.1611/Chny/2024
(निर्धारणवर्ष / Assessment Year: 2013-14)

ACIT Corporate Circle-1(1) Chennai.	बनम / Vs.	M/s. Archean Industries Private Ltd. #2, North Crescent Road, T. Nagar, Chennai-600 017.
स्थायी लेखासं./जीआइआरसं./PAN/GIR No. AAACA-7344-J		
(पीलार्थी/ Appellant)	:	(प्रत्यर्थी/ Respondent)

अपीलार्थी की ओरसे/ Appellant by	:	Shri M. Karthikeyan (Addl.CIT) - Ld. Sr. DR
प्रत्यर्थी की ओरसे/ Respondent by	:	Shri K.M. Mohandass (CA) - Ld.AR

सुनवाई की तारीख/ Date of Hearing	:	17-10-2024
घोषणा की तारीख/ Date of Pronouncement	:	14-11-2024

आदेश / ORDER

Per BENCH:

1.1 Aforesaid appeal by revenue for Assessment Year (AY) 2013-14 arises out of an order passed by learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [CIT(A)] on 02-02-2024 in the matter of an assessment framed by Ld. Assessing Officer [AO] u/s. 143(3) of the Act on 17-03-2016. The registry has noted minor delay of 42 days in the appeal which stand condoned.

1.2 The grounds raised by the revenue read as under: -

i) The order of the learned Addl. CIT(A) is contrary to the facts and circumstances of the case.

- ii) The Ld CIT(A) has erred in deleting the disallowance u/s 40(a)(ia) of the Act relying on the decision of the ITAT in AY 2014-15 whereas the ITAT had in fact ordered for verification.
- iii) The Ld CIT(A) has erred in deleting the disallowance u/s 40(a)(ia) for non-deduction of TDS on Bill discounting charges paid by the Assessee.
- iv) The Ld. CIT(A) has erred in holding that the disallowance u/ s 14A could not exceed exempt income earned by the assessee ignoring the amendment brought in by Finance Act, 2022 in section 14A by way of insertion of an explanation.
- v) The Ld. CIT(A) ought to have afforded opportunity to the Assessing Officer to examine the additional evidences, documents submitted by the Assessee before the Ld CIT(A), thus the Ld CIT(A) as failed to give opportunity to the Assessing Officer under Rule 46A.
- vi) For these and other grounds that may be adduced at the time of hearing, it is prayed that the order of the learned CIT(A) may be set aside and that of the Assessing Officer restored.

As is evident, the issues that arises for our consideration are disallowance u/s 40(a)(ia) and disallowance u/s 14A.

1.3 The Ld. Sr. DR supported the order of Ld. AO whereas Ld. AR submitted that the impugned order has followed the decision of this Tribunal in assessee's own case for AY 2014-15, IT(TP) No.37/Chny/2018 dated 19-10-2022. A copy of the same has been placed on record. Having heard rival submissions and upon perusal of case records, the impugned issues are adjudicated as under.

2. Disallowance u/s 40(a)(ia)

2.1 The assessee claimed net bill discounting charges for Rs.111.33 Lacs after setting-off amount recovered under this head for Rs.425.33 Lacs. The gross bill discounting charges of Rs.536.67 Lacs arose on account of transactions with M/s Vriddhi Corporate Finance. The Ld. AO, considering the expression 'interest' as per Sec.2(28A), held that the charges would be nothing but interest which would require deduction of tax at source. The amount was a pure financial transaction between the assessee and M/s Vridhi Corporate Finance. The case law of Hon'ble Delhi High Court in the case of M/s Cargill Global Trading Company was

held to be distinguishable. Since the assessee did not deduct any TDS against the same, Ld. AO disallowed the amount of Rs.536.67 Lacs u/s 40(a)(ia).

2.2 The Ld. CIT(A), in para 6.3.4. of impugned order, observed that the assessee has not raised any bill of exchange. It discounted the duly acknowledged invoice with the financier who paid net amount to the assessee. It was the invoice which was discounted. Instead of waiting till due date, the assessee discounted the same from the financier. The same would not be in the nature of interest.

2.3 The assessee raised alternative plea by relying on Sec.201(1) read with second proviso to Sec. 40(a)(ia). This plea was accepted by the Tribunal in AY 2014-15 holding that disallowance could not be made if the assessee had furnished Form No.26A. Since this condition was fulfilled, the impugned disallowance was deleted against which the revenue is in further appeal before us.

2.4 We find that Tribunal, in AY 2014-15, has accepted the alternative plea of the assessee and held that such a disallowance could not be made if the assessee had furnished Form No.26A. The Ld. AR has placed on record copy of Form No.26A on record and it has apparently complied with the condition of Second proviso to Sec.40(a)(ia). In such a case, there is no necessity to examine the applicability of TDS on impugned expenditure. Therefore, we see no reason to interfere in the impugned order. The corresponding grounds stand dismissed.

3. Disallowance u/s 14A.

3.1 The assessee incurred interest expenditure and made investment but it did not offer any disallowance u/s 14A. The Ld. AO proceeded to

compute the same in terms of Rule 8D(2) which came to Rs.297.61 Lacs.

3.2 The Ld. CIT(A), considering the decision of Tribunal for AY 2014-15, directed Ld. AO to restrict the disallowance to the extent of exempt income of Rs.12086/- as earned by the assessee. Aggrieved, the revenue is in further appeal before us.

3.3 It is clear that the impugned order has followed earlier decision of Tribunal in assessee's own case for AY 2014-15. It is settled law that disallowance u/s 14A could not exceed the exempt income earned by the assessee unless it was shown that the assessee actually incurred higher expenditure to earn the exempt income. In the absence of any such findings by Ld. AO, the impugned disallowance as made by Ld. AO could not be sustained. Therefore, we see no reason to interfere in the impugned order on this issue also.

Conclusion

4. The appeal stands dismissed.

Order pronounced on 14th November, 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 : 14-11-2024
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आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

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