

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

"C" BENCH, CHENNAI

श्री बी.आर. बास्करन, लेखा सदस्य एवं श्री विकास अवस्थी, न्यायिक सदस्य केसमक्ष

BEFORE SHRI B.R. BASKARAN, ACCOUNTANT MEMBER AND
SHRI VIKAS AWASTHY, JUDICIAL MEMBER

आयकर अपील सं./ITA No. 2611/Mds/2014

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C.O. No. 136/Mds/2014

निर्धारण वर्ष /Assessment Year : 2007-08

The Deputy Commissioner of
Income Tax,
Company Circle VI(4),
Chennai - 600 034.

v. M/s Sundaram Clayton Ltd.,
Jayalakshmi Estates,
No.29, Haddows Road,
Nungambakkam,
Chennai - 600 006.

(अपीलार्थी/Appellant)

PAN : AAACS 4920 J
(प्रत्यर्थी/Respondent & Cross Objector)

अपीलार्थी की ओर से/Appellant by : Shri A.V. Sreekanth, JCIT
प्रत्यर्थी की ओर से/Respondent by : Shri R. Vijayaraghavan, Advocate

सुनवाई की तारीख/Date of Hearing : 22.01.2015

घोषणा की तारीख/Date of Pronouncement : 22.01.2015

आदेश / O R D E R

PER B.R. BASKARAN, ACCOUNTANT MEMBER:

The appeal filed by the Revenue and the cross-objection filed by the assessee are directed against the order dated 30.07.2014, passed by Ld. Commissioner of Income Tax (Appeals)-VI, Chennai and relate to assessment year 2007-08. Both the

parties are aggrieved by the decision rendered by the Ld. CIT(Appeals) in respect of disallowance made under Section 14A of the Income-tax Act, 1961 (in short 'the Act').

2. The Ld.counsel appearing for the assessee submitted that the assessee had earned a dividend income of ₹15.72 Crores. The Assessing Officer originally computed disallowance as per Rule 8D of Income-tax Rules, 1962. However, the Tribunal set aside the matter to the file of the Assessing Officer since it held that the provisions of Rule 8D shall be applicable from assessment year 2008-09 onwards only. In the set aside proceedings, the Assessing Officer computed the disallowance at ₹3.96 Crores. In the appellate proceedings, the Ld. CIT(Appeals) restricted the disallowance to ₹40,53,203/-.

3. The Ld. counsel submitted that the assessee had itself disallowed a sum of ₹33,56,354/-. The Revenue has filed the appeal challenging the order of the Ld. CIT(Appeals) and assessee has filed the cross-objection with a prayer that addition should be sustained to the extent of disallowance made by the assessee.

4. The Ld. counsel submitted that upto assessment year 2007-08, Rule 8A was not applicable and hence disallowance is required to be made in a reasonable manner. The Ld. counsel further

submitted that Hon'ble jurisdictional High Court considered an identical issue in the case of M/s Simpson & Co. Ltd. v. DCIT in Tax Case (Appeal) No.2621 of 2006 dated 15.10.2012 wherein the Hon'ble High Court upheld the view of the ITAT that the disallowance should be made at 2% of the dividend income earned by the assessee. The Ld. counsel submitted that the 2% of dividend income earned by the assessee works out to less than the amount of ₹ 33,56,354/- disallowed by the assessee. Accordingly, he prayed that the addition under Section 14A should be sustained to the extent of disallowance made by the assessee.

5. The Ld. D.R. did not dispute the factual aspects submitted by the Ld. counsel.

6. Since Hon'ble Madras High Court has held in the case of M/s Simpson & Co. Ltd. (supra) that the disallowance be made at 2% of dividend income under Section 14A is justified and since the disallowance made by the assessee works out to more than 2% of the dividend income, we are of the view that the disallowance under Section 14A should be restricted to the amount disallowed by the assessee on its own. Accordingly, we modify the order of the Ld. CIT(Appeals) and direct the Assessing Officer to restrict the disallowance to ₹ 33,56,354/- as disallowed by the assessee.

7. In the result, the appeal filed by the Revenue is dismissed and the cross-objection filed by the assessee is allowed.

Order pronounced in the open court after conclusion of hearing on the 22nd day of January, 2015 at Chennai.

Sd/- (विकास अवस्थी) (Vikas Awasthy) न्यायिक सदस्य/Judicial Member	sd/- (बी.आर. बास्करन) (B.R. Baskaran) लेखा सदस्य/Accountant Member
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चेन्नई/Chennai,
दिनांक/Dated, the 22nd January, 2015.

Kri.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)-VI, Chennai-34
4. आयकर आयुक्त/CIT-VI
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF.