

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

"C" BENCH, CHENNAI

श्री एन.आर.एस. गणेशन, न्यायिक सदस्य एवं

श्री डि.एस. सुन्दर सिंह, लेखा सदस्य केसमक्ष

BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND  
SHRI D.S. SUNDER SINGH, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.2250/Mds/2016

निर्धारण वर्ष / Assessment Year : 2011-12

M/s Computer Age Management  
Services Pvt. Ltd.,

C/o M/s Subbaraya Aiyar  
Padmanabhan & Ramamani  
Advocates,  
New No.75 (Old No.105),  
Dr. Radhakrishnan Salai,  
Mylapore, Chennai - 600 004.

v. The Assistant Commissioner of  
Income Tax,  
LTU (Appeals) – 1,  
Chennai - 600 101.

PAN : AAACC 3035 G

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Sh. R. Vijayaraghavan, Advocate

प्रत्यर्थी की ओर से/Respondent by : Shri A.V. Sreekanth, JCIT

सुनवाई की तारीख/Date of Hearing : 02.11.2016

घोषणा की तारीख/Date of Pronouncement : 27.12.2016

**आदेश / O R D E R**

**PER N.R.S. GANESAN, JUDICIAL MEMBER:**

This appeal of the assessee is directed against the order of the Commissioner of Income Tax (Appeals) – 17, Chennai, dated 30.03.2016 and pertains to assessment year 2011-12.

2. The only issue arises for consideration is disallowance of ₹59,25,357/- under Section 14A of the Income-tax Act, 1961 (in short 'the Act') read with Rule 8D of the Income-tax Rules, 1962.

3. Sh. R. Vijayaraghavan, the Ld.counsel for the assessee, submitted that the assessee-company received dividend income of ₹3,72,79,429/-. However, no expenditure was incurred for earning the income. Referring to Section 14A and Rule 8D, the Ld.counsel for the assessee submitted that the expenditure incurred for earning the exempt income alone needs to be disallowed. According to the Ld. counsel, the entire investment was made from the assessee's own fund and no expenditure was incurred for earning the dividend income. The Ld.counsel further submitted that the assessee itself worked out the expenditure at ₹10,04,673/-. Referring to the order of this Tribunal in the assessee's own case for 2006-07 in I.T.A. No.

1236/Mds/2014, the Ld.counsel submitted that on identical set of facts, this Tribunal directed the Assessing Officer to disallow only 0.5% of average value of investment which has given rise to the income which does not form part of total income. Therefore, according to the Ld. counsel, the CIT(Appeals) is not justified in confirming the order of the Assessing Officer.

4. On the contrary, Shri A.V. Sreekanth, the Ld. Departmental Representative, submitted that the Assessing Officer computed the disallowance under Rule 8D of Income-tax Rules, 1962. Referring to the assessment order, the Ld. D.R. submitted that the direct expenditure was taken as NIL by the Assessing Officer. Since the assessee claimed before the Assessing Officer that its own fund was used for investment, the disallowance under direct expenditure was also taken as NIL. However, according to the Ld. D.R., under clause (iii) of Rule 8D(2) of the Income-tax Rules, 1962, 0.5% of the average value of investment, income of which does not form part of total income, was computed at ₹69,30,037/- and after reducing the disallowance made by the Assessing Officer to the extent of ₹10,04,673/-, the Assessing Officer computed the disallowance at ₹59,25,357/-.

5. We have considered the rival submissions on either side and perused the relevant material available on record. The assessee appears to have not incurred any direct expenditure for earning exempt income. It is also not the case of the assessee that any funds were borrowed for business. Therefore, this Tribunal is of the considered opinion that clause (i) and (ii) of Rule 8D(2) may not be applicable. However, in view of clause (iii) of Rule 8D(2), 0.5% of average value of investment, income from which does not form part of total income, has to be disallowed. The income earned by the assessee was ₹3,72,79,429/-. The average value of investment which resulted in income does not form part of total income is ₹1,38,60,07,410/-. Therefore, the Assessing Officer computed the disallowance at ₹69,30,037/-. After deducting the disallowance made by the assessee to the extent of ₹10,04,680/-, the Assessing Officer sustained the disallowance at ₹59,25,357/-. Since the Assessing Officer computed the disallowance under Rule 8D(2) of the Income-tax Rules, 1962, this Tribunal do not find any reason to interfere with the order of the lower authority and accordingly the same is confirmed.

6. In the result, the appeal filed by the assessee is dismissed.

Order pronounced on 27<sup>th</sup> December, 2016 at Chennai.

Sd/-

(डि.एस. सुन्दर सिंह)

(D.S. Sunder Singh)

लेखा सदस्य/Accountant Member

Sd/-

(एन.आर.एस. गणेशन)

(N.R.S. Ganesan)

न्यायिक सदस्य/Judicial Member

चेन्नई/Chennai,

दिनांक/Dated, the 27<sup>th</sup> December, 2016.

Kri.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)-17, Chennai-34
4. आयकर आयुक्त/CIT-LTU, Chennai
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF.