

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "A", MUMBAI

BEFORE SHRI G.S.PANNU, ACCOUNTANT MEMBER
AND
SHRI RAVISH SOOD, JUDICIAL MEMBER

ITA No.2506/Mum/2015
(Assessment Year 2010-11)

The DCIT,Cen.Cir.1(1),
R.No.903, 9th Floor,
Aaykar Bhavan,M.K.Road,
Mumbai 400 020

..... Appellant

Vs.

M/s. Tilaknagar Industries Ltd.,
3rd Floor, Indl. Assurance Bldg.,
J.D.Tata Marg, Churchgate,
Mumbai 400 020
PAN:AAACT 6047R

.... Respondent

Appellant by : Shri Ajai Pratap Singh
Respondent by : Shri K.Shivaram

Date of hearing : 31/05/2017
Date of pronouncement : 31/05/2017

ORDER

The captioned appeal filed by the Revenue pertaining to assessment year 2010-11 is directed against an order passed by CIT(A)-47, Mumbai dated 20/02/2015, which in turn, arises out of an order passed by the Assessing Officer under section 143(3) of the Income Tax Act, 1961 (in short 'the Act') dated 31/01/2013.

2. In this appeal, Revenue has raised the following Ground of appeal:-

i) "Whether on the facts and in the circumstances of the case and in law, the Ld. CIT(A) was justified in deleting the disallowance of Rs.33,67,807/- under section 14A of the Income tax Act, 1961 ignoring the fact that working of disallowance u/s.14A read with rule 8D is mandatory from A. Y.2008-09 onwards, as held by jurisdictional High Court in Godrej & Boyce Mfg. Co. Limited. (328 ITR 81), further the purpose for which shares are held / purchased could not in any manner impact of applicability of Section 14A, as held by Hon'ble Bombay ITAT in the case of DCIT, Circle 3(1), Mumbai Vs. Damani Estate & Finance Private Limited [41 taxmanri.com 462 (Mum. Trib.)]?"

3. At the time of hearing, the Ld. Representative for the assessee pointed out that the tax effect involved in this appeal is less than Rs.10.00 lacs as prescribed in the CBDT Circular No.21/2015 dated 10/12/2015, which has revised the monetary limits for filing of appeals by the Department before the Tribunal retrospectively. The Ld. Departmental Representative has not disputed the aforesaid fact-situation.

4. Notably, in the instant case, the Assessing Officer made a disallowance under section 14A of the Act of Rs.33,67,807/- and the CIT(A) has restricted it to Rs.79,836/-, thereby showing that the amount disputed by the Revenue in appeal before us is Rs.32,87,971/-. The tax effect on this disputed income comes to Rs.9,86,391/-, excluding the surcharge and education cess of Rs.1,31,190/-. Our Co-ordinate Bench in the case of DCIT vs. M/s. Dome Bell Electronics India Ltd., in ITA No.2480/Mum/2012 dated 22/07/2016 has held that for the purposes of considering the amount of tax effect as envisaged in CBDT Circular dated 10/12/2015 (supra), what has to be considered is the amount of tax excluding the amount of surcharge and education cess. Therefore, in this view of the matter, the tax effect in dispute in the captioned appeal is stated to be below the monetary limit of Rs.10.00 lacs specified in the

CBDT Circular dated 10/12/2015 (supra), the same is dismissed as not maintainable.

5. In the result, appeal of the Revenue is dismissed.

Order pronounced in the open court in the presence of both the parties at the conclusion of hearing on 31/05/2017.

Sd/-
(RAVISH SOOD)
JUDICIAL MEMBER

Sd/-
(G.S.PANNU)
ACCOCUNTANT MEMBER

Mumbai, Dated 31/05/2017

Vm, Sr. PS

Copy of the Order forwarded to :

1. The Appellant ,
2. The Respondent.
3. The CIT(A)-
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER,

(Dy./Asstt. Registrar)

ITAT, Mumbai