

IN THE INCOME TAX APPELLATE TRIBUNAL "D" BENCH, MUMBAI
BEFORE SHRI D. KARUNAKARA RAO, ACCOUNTANT MEMBER
AND
SHRI RAM LAL NEGI, JUDICIAL MEMBER

I.T.A. No.5467/M/2014 (Assessment Year: **2011-2012**)

DSP Adiko Holdings Pvt Ltd., 11 th Floor, Mafatlal Centre, Nariman Point, Mumbai-21.	बनाम/ Vs.	Dy. CIT, Circle 2(1), Mumbai- 20.
स्थायी लेखा सं./PAN : AAACA3438M		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

I.T.A. No.5415/M/2014 (Assessment Year: **2011-2012**)

ACIT-2(1), Mumbai.	बनाम/ Vs.	DSP Adiko Holdings Pvt Ltd., 11 th Floor, Mafatlal Centre, Nariman Point, Mumbai-21.
स्थायी लेखा सं./PAN : AAACA3438M		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

अपीलार्थी की ओर से / Assessee by :	Shri Madhur Aarwal
प्रत्यर्थी की ओर से/ Revenue by :	Shri B.S. Bist

सुनवाई की तारीख /Date of Hearing : 17.03.2016

घोषणा की तारीख /Date of Pronouncement : 17.03.2016

आदेश / O R D E R

PER D. KARUNAKARA RAO, AM:

There are **two** appeals under consideration and they are cross appeals for the assessment year 2011-2012. Both these appeals are raised against the order of the CIT (A)-4, Mumbai dated 23.6.2014. Since, the issues raised in these appeals are interconnected, therefore, for the sake of convenience, they are clubbed, heard together and disposed of in this consolidated order. Appeal wise adjudication is given in the following paragraphs of this order.

2. The only issue raised in these two appeals relates to the disallowance u/s 14A read with Rule 8D of the Act. In connection with this issue, Ld Counsel for the

assessee submitted that the disallowance made by the AO has far exceeded the total claim of expenditure in the P & L Account. Bringing our attention to the order of the Tribunal in assessee's own case for the AY 2008-2009 in ITA No. 7598/M/2011, dated 22.1.2014, copy of which is placed on record, and submitted that the Tribunal granted relief allowing the arguments of the assessee as discussed in para 5 of the said order of the Tribunal (supra). He further submitted that various decisions are now in force on the issue of *whether the AO is allowed to disallow the expenditure, which is debited to the P & L Account*. Further, he fairly mentioned that this issue may be remanded to the file of the AO for considering the ratio laid down in the said assessee's own case (supra) for the AY 2008-2009 and other judgments, if any, on the subject.

3. After hearing both the parties, we find the said para 5 of the Tribunal's order in assessee's own case for the AY 2008-2009 (supra) is relevant in this regard. Considering the significance of the said para 5 of the Tribunal's order (supra), the same is extracted as under:-

"5. We are of the considered view that a reasonable allocation of expenditure has to be made which can be attributed to the income which is chargeable to tax particularly bank interest income of Rs. 28.50 Crs as against dividend income of Rs. 12.46 Crs (approximately). Considering the facts and circumstances of the case, we are of the considered view that expenditure of Rs. 7,21,927/- as worked out by assessee, the details of which are mentioned by AO at page 2 of the assessment order, is reasonable to make disallowance u/s 14A read with Rule 8D. Accordingly, we restrict the disallowance to Rs. 7,21,927/- by reversing the orders of authorities below and allow the grounds of appeal taken by assessee. Hence, the grounds of appeal taken by assessee are allowed."

4. On perusal of the above decision of the Tribunal, we agree with the Ld Counsel's argument and remand the matter to the file of the AO. We direct the AO to apply the said ratio to the facts of the present case and other decisions, if any, in force and decided the issue in accordance with law. AO shall grant a reasonable opportunity of being heard to the assessee as per the set principles of natural justice. Accordingly, all the grounds raised in both the cross appeals are allowed for statistical purposes.

5. In the result, both the cross appeals are allowed for statistical purposes.

Order pronounced in the open court on 17th March, 2016.

Sd/-

Sd/-

(RAM LAL NEGI)

JUDICIAL MEMBER

मुंबई Mumbai; दिनांक 17.3.2016

व.नि.स./ OKK, Sr. PS

(D. KARUNAKARA RAO)

ACCOUNTANT MEMBER

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT(A)-
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR,
ITAT, Mumbai
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)

आयकर अपीलीय अधिकरण, मुंबई / **ITAT, Mumbai**