

IN THE INCOME TAX APPELLATE TRIBUNAL "SMC" BENCH, MUMBAI  
**BEFORE SHRI D. KARUNAKARA RAO, ACCOUNTANT MEMBER**

I.T.A. No.7373/M/2014  
(Assessment Year: **2010-2011**)

Sterling Investment Corporation Private Limited, Shapoorji Pallonji Centre, 41/44, Minoo Desai Marg, Colaba, Mumbai – 400 005.	बनाम/ Vs.	DCIT-Circle 3(3), Mumbai – 400 020.
स्थायी लेखा सं./PAN : AAACS5467L		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

अपीलार्थी की ओर से / Appellant by	:	Shri Divesh Chawla
प्रत्यर्थी की ओर से/ Respondent by	:	Shri Aravind Kumar, DR

सुनवाई की तारीख /Date of Hearing : 11.04.2016

घोषणा की तारीख /Date of Pronouncement : 22.04.2016

**आदेश / O R D E R**

**PER D. KARUNAKARA RAO, AM:**

This appeal filed by the assessee on 10.12.2014 is against the order of the CIT (A)-7, Mumbai dated 31.10.2014 for the assessment year 2011-2012. In this appeal, assessee raised the following ground which reads as under:-

*" On the facts and in the circumstances of the case and in law, Ld CIT (A) erred in confirming the AO's action of disallowance of an additional amount of Rs. 9,02,238/- u/s 14A r.w. Rule 8D, even though the appellant disallowed on its own amount of Rs. 5,38,46,444/- u/s 14A of the Act."*

2. Briefly stated relevant facts of the case are that the assessee is a Non-Banking Financial Company (NBFC), filed the return of income declaring the total income of Rs. 5,04,878/-. Assessing Officer made an assessment under normal provisions and quantified the total income at Rs. 14,07,120/-. In the assessment, AO disallowed sum of Rs. 9,02,238/- u/s 14A of the Act. On appeal, CIT (A) confirmed the said addition. Aggrieved with the above decision of the CIT (A), assessee is in appeal before the Tribunal by raising the above mentioned ground.

3. During the proceedings before us, at the outset, Id Counsel for the assessee brought my attention to the paper book and submitted that page 11 of the PB constitutes Profit & Loss Account and the assessee has three sources of income namely (i) income from investment; (ii) exempt dividend income and (ii) rental income. Bringing my attention to the interest expenditure, Ld Counsel for the assessee submitted that all the interests relatable to the investments are yielded exempt income were entirely disallowed while computing the taxable income. Further, bringing my attention to Schedule-13 (page 16 of the PB), Ld Counsel for the assessee mentioned that gross expenditure of Rs. 18,64,930/- was arrived at before making further deductions. Bringing my attention to 'depository service charges' and 'share issue expenses', Ld Counsel for the assessee mentioned that these expenses since connected to the exempt income, the same, amounting to Rs. 9.62 lakhs, was entirely disallowed for the purpose of section 14A of the Act. Thus, he summed up by stating that out of the entire expenditure of Rs. 18.64 lakhs, only Rs. 9.62 lakhs was claimed as allowable expenditure, which was entirely disallowed by the AO in the assessment. He also mentioned that directly connected expenses were entirely disallowed by the AO out of the indirect expenditure. Assessee found reasonable to disallow Rs. 1 lakh additionally. He also submitted that the balances of other amounts appearing in Schedule-13 are necessary for running of the business. They cannot be entirely claimed as expenditure incurred for earning of dividend income, when there are other sources of income namely investment activity and rental activities. Ld Counsel for the assessee fairly mentioned that the disallowance of Rs. 1 lakh out of the said indirect expenses is made on ad-hoc basis and the Bench may take a proper view if they are not satisfied with the like disallowance *suo moto* disallowed by the assessee.

4. On the other hand, Ld DR for the Revenue is of the opinion, the indirect expenses should be apportioned on the basis of turnover of the three sources of income ie investment activity; exempt income and the rental income.

5. I have heard both the parties and find, the dispute, if any, relates to disallowance of Rs. 9,02,238/-. It is the case of the Revenue that the whole amount should be disallowed as it relates to the expenses incurred for earning of the exempt

income, which formed part of the total income. On perusal of each of the account appearing in Schedule-13, which is placed at page 16 of the paper book, I find, the contention of the Ld DR is not sustainable. What can be disallowed is only the expenditure incurred for earning of the exempt income, which formed part of the total income of the assessee. Considering the nature of the expenses appearing in Schedule-13 of the accounts, I find, the criteria adopted by the assessee is fair and reasonable with an amendment that the disallowance of indirect expenses should be increased to Rs. 2 lakhs in place of Rs. 1 lakh as done by the assessee. Accordingly, Ground raised by the assessee is partly allowed.

6. In the result, appeal of the assessee is partly allowed.

Order pronounced in the open court on 22<sup>nd</sup> April, 2016.

Sd/-

**(D. KARUNAKARA RAO)**  
ACCOUNTANT MEMBER

मुंबई Mumbai; दिनांक 22.4.2016  
व.नि.स./ OKK, Sr. PS

**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**