

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई

**IN THE INCOME TAX APPELLATE TRIBUNAL**

**'A' BENCH, CHENNAI**

श्रीएन.आर.एस. गणेशन, न्यायिकसदस्य 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.1336/Mds/2016

निर्धारण वर्ष / Assessment Year : 2011-12

The Deputy Commissioner of  
Income Tax,  
Corporate Circle -2 (2),  
Room No.512, 5<sup>th</sup> Floor,  
Wanaparthy Block,  
121, M.G.Road,  
Chennai – 600 034.

v. M/s.Harita Seating Systems  
Limited,  
Jayalakshmi Estates,  
No.29 (Old No.8),  
Haddows Road,  
Chennai – 600 006.

PAN: AAACH 2492 N

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri. Shiva Srinivas, JCIT

प्रत्यर्थीकीओरसे/Respondent by

: Shri. Saroj Kumar Parida, Advocate

सुनवाईकीतारीख/Date of Hearing

: 29.09.2016

घोषणाकीतारीख/Date of Pronouncement

: 28.10.2016

**आदेश / O R D E R**

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

This appeal of the revenue is directed against the order of CIT(A)

-6, Chennai dated 03.03.2016 and pertains to assessment year 2011-12.

2. Shri Shiva Srinivas, the learned representative for the department submitted that the only issue arises for consideration is disallowance made by the assessing officer under Section 14A of the Income Tax Act. Referring to the assessment order, the learned department representative submitted that the assessing officer disallowed the expenditure for earning the exempted income by applying the provisions of Rule 8D (2) of Income Tax Rules. However, the CIT(A) allowed the claim of the assessee partly by restricting the disallowance to Rs.1,05,715/- as against the disallowance made by the assessing officer to the extent of Rs.2,69,77,912/-. The CIT(A) without disclosing the facts of the case has simply place reliance on the decision of this Bench of the Tribunal. It is not known in which company the assessee invested and how such investment would be considered as investment in the subsidiary companies. Unless such details are brought on record, the department representative submitted that the decision of this bench of this Tribunal cannot be applied.

3. On the contrary, Shri Saroj Kumar Parida, the learned counsel for the assessee submitted that the assessee made investment in the subsidiary companies. Therefore, the CIT(A) by placing his reliance on the order of this Tribunal in ACIT Vs. M.Baskaran in ITA

No.1717/Mds/2013 and EIH Associated Hotels Limited Vs. DCIT in ITA No.1503/1624/Mds/2012, partly allowed the claim of the assessee by restricting the disallowance to Rs.1,05,715/-.

4. We have considered the rival submissions on either side and also perused the material available on record. We have also carefully gone through the order of this Tribunal in M.Baskaran (supra) and EIH Associated Hotels Limited (supra).

5. The assessee appears to have claimed before the CIT(A) that the investment was made in subsidiary companies. The detail of the companies in which investment was said to be made is not available on record. The share holding participation of the companies in which investment was made also was not available on record. Unless and until, the share holding pattern of the company in which investment was said to be made is made available by the assessee, it cannot be construed that such companies are subsidiary companies of the assessee. The decision of this bench of the Tribunal has to be applied by bringing on all facts on record. Since the CIT(A) has not brought on record all the facts and circumstances including the share holding pattern of the so called sister concern, this Tribunal is of the considered opinion that the matter needs to be re-examined by the assessing officer. Hence, the orders of the lower authorities are set aside and the entire issue is remitted back

to the file of the AO. The AO shall re-examine the matter and bring on record the details of the companies in which the investment was made by the assessee and the share holding pattern of such companies and the AO shall also discuss in the order how such companies are subsidiary companies to the assessee. Thereafter, the AO shall decide the issue afresh in accordance with law after giving reasonable opportunity to the assessee.

6. In the result, the appeal of the department is allowed for statistical purposes.

Order pronounced on 28<sup>th</sup> October, 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 28<sup>th</sup> October, 2016.

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आदेश की प्रतिलिपि अग्रेषित/Copy to:

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