

आयकर अपीलीय अधिकरण, मुंबई न्यायपीठ 'बी', मुंबई ।
IN THE INCOME TAX APPELLATE TRIBUNAL "B", BENCH MUMBAI
BEFORE SHRI R.C.SHARMA, AM
&
SHRI PAWAN SINGH, JM

आयकर अपील सं./ITA No.168/Mum/2013

(निर्धारण वर्ष / Assessment Year :2009-10)

M/s Blue Blends (I) Ltd., JBF House, 13, Old Office Lane, Kalbadevi Road, Mumbai-400002	Vs.	DCIT, Range-4(1), Mumbai
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AAACB 1690 C		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

निर्धारिती की ओर से /Assessee by : Ms. Sanjukta Chowdhury

राजस्व की ओर से /Revenue by : Shri Prakash L. Pathade

सुनवाई की तारीख / Date of Hearing : 07/04/2016

घोषणा की तारीख/Date of Pronouncement 27/04/2016

आदेश / O R D E R

PER R.C.SHARMA (A.M):

This is an appeal filed by the assessee against the order of CIT(A)-Mumbai, for the assessment year 2009-2010, in the matter of order passed u/s.143(3) of I.T.Act.

2. The only grievance of the assessee relates to disallowance of Rs.5,42,831/- u/s.14A r.w.r.8D against earning of exempt dividend income of Rs.352/-.

3. Rival contentions have been heard and record perused. Facts in brief are that the assessee company is a sick company since the F.Y.1999-2000 and was so declared-sick company by the BIFR. It did not incur any direct or indirect expenditure during the year under consideration to earn an income not includible in taxable income. All its

investments are strategic investments in its sister or associates concerns for its business purposes which were made before more than 15 to 20 years back for which no borrowed funds were used. We also found that it has not made any new investments in last 5-10 years and all of its movable and immovable assets are charged to its secured institutional lenders and banks. During the year under consideration it got a dividend of Rs.352/- on 18 Shares it holds in Assian Paints Ltd for which it has not incurred any direct or indirect expenses and cost of its investment in Asian Paints Ltd. Is Rs. 3900/- only out of its total investments of Rs.107409142/-.

4. From the record, we found that assessee has not incurred any expenditure for earning dividend of Rs.352/-. Accordingly, we do not find any justification for the disallowance made u/s.14A amounting to Rs.5,42,831/-.

5. The assessee is also aggrieved for disallowance on depreciation of Rs.13,09,788/- claimed on certain assets on its manufacturing unit. The AO disallowed claim of depreciation on the plea that certain units of assessee company were closed. However, the assessee has not make any claim of depreciation on its plant and machinery and electronic installation. The AO asked the details of unit-wise claimed by the assessee and disallowed claim of Rs.13,09,788/-, which was confirmed by the CIT(A).

6. Ld. AR placed on record decision of Hon'ble Delhi High Court in the case of Oswal Agro Mills, 238 CTR 113, wherein it was also held that

despite of non-user of assets, depreciation is allowable, if it is part of "block of assets". Similar view has been taken by Hon'ble Kerala High Court in case of Travancore Chemicals & Mfg. Co. Ltd., 142 Taxman 316.

7. We have considered rival contentions and found that assets on which AO has disallowed the claim of depreciation was forming part of block of assets. Respectfully, following the decision of Hon'ble High Courts discussed above, no disallowance of depreciation can be made in respect of assets forming part of block of assets. Accordingly, the AO is directed to delete the disallowance of depreciation so made.

8. In the result, appeal of the assessee is allowed.

Order pronounced in the open court on this 27/04/2016.

**Sd/-
(PAWAN SINGH)**

न्यायिक सदस्य / JUDICIAL MEMBER

मुंबई Mumbai; दिनांक Dated 27/04/2016

प्र.कु.मि/pkm, नि.स/ 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), Mumbai.
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

**Sd/-
(R.C.SHARMA)**

लेखा सदस्य / ACCOUNTANT MEMBER

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार
(Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई /
ITAT, Mumbai