

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'C' BENCH, CHENNAI
श्री वी. दुर्गा राव, न्यायिक सदस्य एवं श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष ।
Before Shri V. Durga Rao, Judicial Member &
Shri Manoj Kumar Aggarwal, Accountant Member

आयकर अपील सं./I.T.A. No.461/Chny/2023
निर्धारण वर्ष/Assessment Year: 2018-19

The Assistant Commissioner of
Income Tax,
Central Circle 1(1),
Chennai.

Vs. M/s. ETA Star Property Developers
Limited, No. 10-11, Chennai Citi Center,
Dr. Radhakrishnan Road, Mylapore,
Chennai 600 004.
[PAN:AABCE5356K]

(अपीलार्थी /Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri P. Sajit Kumar, JCIT
प्रत्यर्थी की ओर से/Respondent by : Shri V. Padmanaban, F.C.A.
सुनवाई की तारीख/ Date of hearing : 30.05.2023
घोषणा की तारीख /Date of Pronouncement : 31.05.2023

आदेश /ORDER

PER V. DURGA RAO, JUDICIAL MEMBER:

This appeal filed by the Revenue is directed against the order of the
Id. Commissioner of Income Tax (Appeals) 18, Chennai, dated
03.01.2023 relevant to the assessment year 2018-19. The only issue
involved in this appeal is relating to deletion of disallowance made under
section 14A of the Income Tax Act, 1961 ["Act" in short] amounting to
₹.2,36,66,025/-.

2. Brief facts of the case are that the assessee filed its return of

income for the assessment year 2018-19 on 30.10.2018 admitting loss of ₹.3,55,08,850/-. The return was processed under section 143(1) of the Act on 19.11.2019 determining loss of ₹.3,54,51,158/-. In the meantime, the case was selected for scrutiny under CASS and notice under section 143(2) of the Act was issued on 22.09.2019. After following due procedure, the assessment was completed under section 143(3) of the Act assessing loss at ₹.1,17,85,133/- after making disallowance of 2,36,66,025/- under section 14A of the Act. On appeal, by referring to various case law including the decision in the case of CIT v. Chettinad Logistics Pvt. Ltd. [2017] 80 taxmann.com 221 (Madras), the Id. CIT(A) directed the Assessing Officer to delete the addition of ₹.2,36,66,025/- made under section 14A of the Act.

3. Aggrieved, the Revenue is in appeal before the Tribunal. The Id. DR has submitted that when there is no express provisions in section 14A and Rule 8D, the Id. CIT(A) has erroneously restricted the disallowance.

4. On the other hand, the Id. Counsel for the assessee has relied on the decision in the case of CIT v. Chettinad Logistics Pvt. Ltd. (supra) and strongly supported the order passed by the Id. CIT(A).

5. We have heard both the sides, perused the materials available on

record and gone through the orders of authorities below. During the course of assessment proceedings, the Assessing Officer has noted that the assessee had opening and closing investment in unlisted equities (which would yield exempt dividend income) of an amount of ₹.236,66,02,500/- during the relevant previous year. The Assessing Officer was of the opinion that it would not be possible to make a huge investment of this scale without utilizing the manpower of the assessee company and managerial decisions of the company is indispensable for making of such massive investment. Accordingly, by applying the provisions of section 14A r.w. Rule 8D, the Assessing Officer determined the disallowance at ₹.2,36,66,025/- and brought to tax. On appeal, the Id. CIT(A) directed the Assessing Officer to delete the addition towards disallowance made under section 14A of the Act.

6. In this case, the Id. CIT(A) has observed that in his assessment order itself, the Assessing Officer has clearly stated that the assessee has not earned from equity investments which would yield exempt dividend income and the dividend income earned by the assessee is NIL. Thus, it is clear that the assessee has not earned any exempt income in the relevant assessment year under appeal against the investments. In this circumstances, in the case of CIT v. Chettinad Logistics (P) Ltd.

(supra), the Hon'ble Jurisdictional High Court has observed and held that when there was no dividend income earned in the relevant assessment year, the disallowance made by the Assessing Officer in view of the provisions of section 14A of the Act read with Rule 8D was completely contrary to the provisions of that section as Rule 8D only provides for a method to determine the amount of expenditure incurred in relation to income, which does not form part of total income of the assessee. Against the decision of the Hon'ble High Court, the Department preferred Special leave Petition, which was dismissed by the Hon'ble Supreme Court [2018] 95 taxmann.com 250 (SC). In view of the above decision in the case of CIT v. Chettinad Logistics (P) Ltd. (supra), we find no infirmity in the order passed by the Id. CIT(A) in directing the Assessing Officer to delete the addition made towards disallowance of ₹.2,36,66,025/- under section 14A of the Act. Thus, the ground raised by the Revenue is dismissed.

7. In the result, the appeal filed by the Revenue is dismissed.

Order pronounced on the 31st May, 2023 at Chennai.

Sd/-
(MANOJ KUMAR AGGARWAL)
ACCOUNTANT MEMBER

Sd/-
(V. DURGA RAO)
JUDICIAL MEMBER

Chennai, Dated, the 31.05.2023

Vm/-

आदेश की प्रतिलिपि अग्रेषित/Copy to: 1.अपीलार्थी/Appellant, 2.प्रत्यर्थी/
Respondent, 3.आयकर आयुक्त/CIT, 4. विभागीय प्रतिनिधि/DR & 5. गार्ड फाईल/GF.