IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 2.2.2015

CORAM

THE HON'BLE MR.JUSTICE R.SUDHAKAR
AND
THE HON'BLE MRS.JUSTICE S.VIMALA

T.C.(A).Nos.1305 and 1306 of 2007

India Nippon Electricals Ltd.
Alim Centre (II Floor)
82, Dr.Radhakrishnan Salai
Chennai - 600 004. .. Appellant in both appeals

Vs.

The Deputy Commissioner of Income Tax
Company Circle-II (3)
Chennai - 600 034. .. Respondent in TC.1305/2007

The Assistant Commissioner of Income Tax
Company Circle-II (3)
Chennai - 600 034. .. Respondent in TC.1306/2007

PRAYER: Appeals under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal 'A' Bench, Chennai, dated 15.9.2006 made in (i) I.T.A.No.106/Mds/2005 for the assessment year 2000-2001; and (ii) I.T.A.No.636/Mds/2006 for the assessment year 2002-2003.

against the proceedings of the Commissioner of Income Tax(Appeals) XI, Chennai in ITA.TR.No.170/ITA No.151/04-05 ITA TR.No.171/ITA No.150/04-03 dated 14.12.2004 for the Asst Year 1999-2000 & 2000-01 and the Commissioner of Income Tax(Appeals) XI, Chennai -34 in ITA No.279/2005-2006 dated 18.1.2006 for the Assessment Year 2002-2003. against the Order of Deputy Commissioner of Income Tax, Company Circle II(3) dated 13.3.2003 for the Assessment Year 2000-01 and Asst.Commissioner of Income Tax Company Circle II(3) dated 24.03.2005 for Assessment Year 2002-03 respectively.

For Appellant	:	Mr.Venkat Narayanan for M/s.Subbaraya Aiyar
For Respondents in both appeals	:	Mr.T.Ravi Kumar Senior Standing Counsel

JUDGMENT
(Delivered by R.SUDHAKAR, J.)

The assessee has filed these appeals assailing the order of the Income Tax Appellate Tribunal 'A' Bench, Chennai, dated 15.9.2006 made in (i) I.T.A.No.106/Mds/2005 for the assessment year 2000-2001; and (ii) I.T.A.No.636/Mds/2006 for the assessment year 2002-2003 and the same were admitted on the following questions of law:

(i) Whether the Tribunal was justified in upholding the estimated disallowance of 2% of the expenditure as being incidental to earning dividend income under Section 14A of the Act, although no actual expenditure was incurred?

(ii) Whether the Tribunal was justified in not appreciating that as per Section 14A of the Act only the actual expenditure incurred in relation to income which does not form part of total income shall be disallowed?

2. The learned counsel on either side submit that the questions of law raised in these appeals are covered by a decision of a Division Bench of this Court in EID Parry - Vs - The Asst. Commissioner of Income Tax, Chennai (T.C. (A) No.2511/06 dated 30.10.12). In the said judgment, this Court considered two questions of law as under:

"(i) Whether on the facts and in the circumstances of the case, the Appellate Tribunal was right in law in upholding the estimate of expenses at 2% deemed to have been incurred in respect of dividend income, when no such expenses were incurred?

(ii) Whether on the facts and in the circumstances of the case, the Appellate Tribunal was right in law in upholding the addition of the estimate expenses at the rate of 2% on dividend income while computing book profits, when no such expenses were incurred?

and answered the same as under:

"2. As far as first and second questions of law are concerned, learned counsel for the assessee fairly submits that the same is covered against the assessee by reason of decision of this Court rendered in assessee's own case in T.C. No.2287 of 2006 dated 8.8.12.

Accordingly, the above two questions of law are answered against the assessee."

3. The above said decision has been followed by this Court in the judgment dated 17.12.2014 made in T.C.(A) No.524 of 2007 (Commissioner of Income Tax v. Tube Investments of India Ltd) and identical questions of law were answered against the assessee.

4. In view of the decisions referred supra, these appeals are dismissed answering the questions of law raised in these appeals against the assessee and in favour of the Revenue. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To:

1. The Assistant Registrar,
Income Tax Appellate Tribunal
Chennai Bench "A", Chennai.

2. The Secretary, Central Board
of Direct Taxes, New Delhi.

3. The Commissioner of Income Tax (Appeals) - XI
Chennai.

4. The Deputy Commissioner of Income Tax
Company Circle II(3), Chennai.

5. The Assistant Commissioner of Income Tax
Company Circle II(3), Chennai.

1 cc to Mr.R..Venkat Narayanan ,Advocate, SR.No.5859

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