In the High Court of Judicature at Madras

Dated : 24.6.2019

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM
and
The Honourable Mrs.Justice V.BHAVANI SUBBAROYAN

Tax Case Appeal No.502 of 2018

The Commissioner of Income Tax, Corporate Circle, Madurai ...Appellant/Appellant

Vs

M/s.Rajapalayam Mills Ltd., Rajapalayam. ...Respondent/Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 25.1.2018 made in ITA No.3165/Mds/2016 on the file of the Income Tax Appellate Tribunal Chennai 'C' Bench for the assessment year 2012-13 arising against the order of the Commissioner of Income Tax (Appeals 1) Madurai dated 24.08.2016 for the Assessment year 2012-2013 against the order of the Deputy Commissioner of Income Tax, Corporate Circle 2, Madurai dated 31.03.2015(PAN NO. AAACR8897F)

For Appellant : Mr.M.Swaminathan, Senior Standing Counsel

For Respondent : Mr.P.J.Rishikesh

Judgment was delivered by T.S.SIVAGNANAM,J

This appeal, filed by the Revenue under Section 260A of the Income Tax Act, 1961 (for short, the Act), is directed against the order dated 25.1.2018 passed by the Income Tax Appellate Tribunal, Chennai 'C' Bench (for brevity, the Tribunal) in ITA No.3165/Mds/2016 for the assessment year 2012-13.

2. The Revenue has filed this appeal by raising the following substantial questions of law :

> “i. Whether the Tribunal was right in deleting the disallowance made under Section 14A read with Rule 8D of the Income Tax Act when the assessee has made investments in

share, which yielded tax exempt income of dividend and also when the assessee debited interest, which is not directly attributable to any particular income or receipt and thus satisfies the condition stipulated under Section 14A read with Rule 8D ? and

ii. Whether the Tribunal was right in deleting the disallowance made under Section 14A read with Rule 8D when the assessee had utilized the borrowed funds for the purpose of purchase of shares in the subsidiary company?"

3. We have heard Mr.M.Swaminathan, learned Senior Standing Counsel appearing for the Revenue and Mr.P.J.Rishikesh, learned counsel appearing for the respondent - assessee.

4. After hearing the learned counsel for the parties and carefully perusing the materials on record, we find that there is no substantial question of law arises for consideration in this appeal. We support such a conclusion with the following reasons :

The Revenue is before us by contending that the Tribunal erred in deleting the disallowance under Section 14A of the Act on the ground that the borrowed funds were not utilized for the purposes of investment in shares without bringing the facts on record to conclusively prove that only own funds were utilized for the purpose of shares. To be noted that this ground was raised before the Tribunal by the Revenue in the same form. The Tribunal considered the same and recorded that the assessee had surplus funds of its own and that it was not disputed that assessee was having Rs.43,451.32 lakhs and the investment was only Rs.4,417.20 lakhs.

5. Before the Commissioner of Income Tax (Appeals)-1, Madurai [for short, the CIT(A)], the assessee clearly pointed out that it was their own fund, which was invested in the sister concern. The Revenue resisted such a plea. The CIT(A), in his order dated 24.8.2016, in paragraph 3.3 of his order, recorded the following findings :

"I have considered the submissions of the representative. It is seen from the assessment order that the Assessing Officer has not recorded any satisfaction note as to why the disallowance under Section 14A is warranted on the facts of the case even when the appellant is having own funds. As seen from the balance sheet, the appellant is having the following own funds :

Share capital	:	Rs. 737.62 lakhs
Reserves & Surplus	:	Rs.14,951.77 lakhs
Depreciation reserve	:	Rs.27,761.93 lakhs
Total	:	Rs.43,451.32 lakhs

As against the above own funds, the investment in shares is only Rs.4,417.20 lakhs as seen from Note-10 of the final accounts. In the circumstances, the appellant is having adequate own capital to explain the investment in shares."

6.The above findings of the CIT(A) were examined for their correctness and approved by the Tribunal in the impugned order. Thus, we find that no substantial question of law arises for consideration in this appeal.

7.For the above reasons, the tax case appeal fails and is dismissed. No costs.

-s/d-
Assistant Registrar(CS-IX)

True Copy

Sub-Assistant Registrar

To
1.The Income Tax Appellate Tribunal, Chennai 'C' Bench

2.The Commissioner of Income Tax (Appeals)1 , Madurai

+1 CC to Mr.M.Swaminathan, SSC sr 52462.
+1 CC to Mr.P.J.Rishikesh, Advocate sr 52119.

TCA.No.502 of 2018

RSK(CO)
SP(18/07/2019)