IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.04.2019

CORAM:

THE HON'BLE DR. JUSTICE VINEET KOTHARI
and
THE HON'BLE MR. JUSTICE C.V.KARTHIKEYAN

T.C.(A).No.179 of 2017

The Commissioner of Income Tax,
Chennai. ... Appellant

..Vs..

M/s.Abhi Ambi Financial Services Ltd
327, Sterling Tower
Anna Salai, Teyampet
Chennai 600 006.
PANO:AAACA9181H ... Respondent

Prayer : Tax Case (Appeal) is filed under Section 260-A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Chennai 'C' Bench, dated 22.04.2016 passed in I.T.A.NO.1855/Mds/2014 for the Assessment Year 2010-11, as against the order dated 24/03/2014 in ITA No.266/12-13/A-1 on the file of the Commissioner of Income Tax Appeals-1, 121.Mahatma Gandhi Road, Chennai 600 034 in PAN/GIR No.AAACA9181H for the Assessment Year 2010-11.

For Appellant : Mr.T.Ravikumar
Senior Standing Counsel

For Respondent : M/s.Sandeep Bagmar

J U D G M E N T

(Judgment of the Court was delivered by DR.VINEET KOTHARI, J.)

The Revenue has filed this Appeal raising the purported Substantial Questions of Law arising from the order of the learned Income Tax Appellate Tribunal dated 22.04.2016, dismissing the Revenue's Appeal and allowing the Cross Objection filed by the Assessee for the Assessment Year 2010-2011.

2. The issue involved before the learned Tribunal was about the disallowance under Section 14A of the Income Tax Act r/w Rule 8D of the Income Tax Rules, which permits such disallowance of expenditure incurred to earn exempted income.

3. The learned counsel for the Assessee submitted that the disallowance made by the Assessing authority far exceeded the exempted income in the hands of the Assessee itself which is not permissible in law.

4. On the other hand, the learned counsel for the Revenue supported the Impugned Order passed by the Assessing Authority.

5. Having heard the learned counsel for the parties, we are of the opinion that the matter deserves to be remitted back to the Assessing Authority for correct application of Rule 8D and computation of disallowance amount under Section 14A of the Income Tax Act, 1961, as we are of the clear opinion that the disallowance under Section 14A cannot exceed the exempted income disclosed and assessed by the Assessing Authority. The purpose of Section 14A of the Act was very clear that the expenditure incurred to earn exempted income cannot be allowed as a deduction. Normally, in such cases the Tribunal has adopted the norm of 2% of exempted income as permissible disallowance under Section 14A of the Act. Therefore, the matter deserves to be examined by the Assessing Authority once again.

6. Accordingly, this Appeal is disposed of without answering the Substantial Questions of Law raised by the Revenue and the matter is remitted back to the Assessing Authority for determination of disallowance under Section 14A of the Income Tax Act. No order as to costs.

Sd/-
Assistant Registrar(V/O)

//True Copy//

Sub Assistant Registrar

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To

1. The Additional Commissioner of Income-Tax
CO.Range-I, Chennai-34.

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

3. The Income Tax Appellate Tribunal
'C' Bench, Chennai.

+1cc to Mr.T.Ravikumar, Advocate Sr.32514
+1cc to Mr.Sandeep Bagmar, Advocate Sr.32602

T.C.(A).No.179 of 2017

srg 29/05/2019