IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

ITA-254-2018 (O&M)

Date of Decision: 3.5.2019

The Principal Commissioner of Income Tax (Central), Ludhiana

....Appellant.

Versus

M/s Vardhman Industries Ltd., New Delhi

...Respondent.

CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL.

PRESENT: Mr. Rajesh Katoch, Sr. Standing Counsel for the appellant.

AJAY KUMAR MITTAL, J.

1. This appeal has been preferred by the revenue under Section 260A of the Income Tax Act, 1961 (in short "the Act") against the order dated 12.12.2017 (Annexure A-III) passed by the Income Tax Appellate Tribunal, Chandigarh Bench 'B', Chandigarh (hereinafter referred to as "the Tribunal") in ITA No. 1179/Chd/2017, for the assessment year 2012-13, claiming the following substantial questions of law:-

(i) Whether on the facts and in the circumstances of the case and in law, the Hon'ble ITAT has erred in upholding the order of the Ld. CIT(A), deleting the addition of ₹ 32,17,309/- made on account of disallowance u/s 14A of the Income Tax Act, 1961 read with Rule 8D of the Income Tax Rules, 1962 by ignoring the Circular No. 5/2014 dated 11.02.2014 issued by the CBDT which provides for disallowance of expenditure even where tax payer in particular year has not earned any exempt income?

(ii) Whether the impugned order dated 12.12.2017 passed by the Hon'ble ITAT is sustainable in the eyes of law and maintainable in the facts and circumstances of the case when the assessee has claimed interest expenditure in P&L account and has made investments, income arising on which is not includible in taxable income u/s 14A of the Income Tax Act, 1961?

2. Put shortly, the facts necessary for adjudication of the instant appeal as narrated therein may be noticed. The assessee is engaged in the business of manufacturing of Steel Ingots, GP Sheets/Coils, GC Sheets, CCL Sheets and generation of power. During the course of assessment proceedings, the Assessing Officer noticed that on 31.3.2011, the investments of ₹ 8,33,38,000/- were made by the assessee. The investments of ₹ 1,31,00,000/- were made during the year under consideration. Thus, the total investments of ₹ 9,64,38,000/- were made. The investments as declared were capital in nature and the income, if any, arising by way of dividend, out of such investment was exempt from taxation. The assessee had not offered any disallowance of expenditure in this regard. The Assessing Officer vide assessment order dated 18.3.2015 (Annexure A-I) made a disallowance of ₹ 32,17,309/- under Section 14A of the Act read with Rule 8D of the Income Tax Rules, 1962 (in short "the Rules") and added the same to the returned income of the assessee. Feeling aggrieved, the assessee filed an appeal before the Commissioner of Income Tax (Appeals) [in short "the CIT(A)"] challenging the addition of ₹ 32,17,309/-

on account of disallowance of expenses under Section 14A of the Act read with Rule 8D of the Rules. The CIT(A) vide order dated 1.5.2017 (Annexure A-II) allowed the appeal and deleted the said addition by relying upon the judgment of the Tribunal in the case of the same assessee for the assessment year 2007-08. The revenue challenged the order, Annexure A-II, before the Tribunal. The Tribunal vide order dated 12.12.2017 (Annexure A-III) upheld the order of the CIT(A) and dismissed the appeal of the revenue in view of its own judgment in the case of the same assessee for the assessment year 2007-08 and also relying upon the judgment of this Court in **CIT v. Winsome Textiles (2009) 319 ITR 204 (P&H)** and judgments of other High Courts. Hence, the present appeal by the revenue against the deletion of disallowance made under Section 14A of the Act.

3. We have heard learned counsel for the revenue.

4. It was not disputed by the learned counsel for the revenue that the aforesaid matter is covered by the judgment of this Court in **ITA No. 322 of 2016 (Principal Commissioner of Income Tax-I, Chandigarh v. M/s Vardhman Chemtech Private Limited, Chandigarh)** decided on 28.8.2018, wherein the appeal filed by the revenue was dismissed.

5. Accordingly, the appeal is dismissed in terms of ITA No. 322 of 2016 decided on 28.8.2018.

(AJAY KUMAR MITTAL)
JUDGE

May 3, 2019
gbs

(MANJARI NEHRU KAUL)
JUDGE

Whether Speaking/Reasoned **Yes/No**

Whether Reportable **Yes/No**