IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.07.2020

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE MR.JUSTICE KRISHNAN RAMASAMY

Tax Case (Appeal) No.234 of 2015

The Commissioner of Income tax,
Chennai ...Appellant/Respondent

vs

M/s.Dewa Properties Ltd
No.770A, II Floor, Dewa Tower I
Anna Salai , Chennai-600 002 ...Respondet/Appellant

Tax Case Appeal filed against the order of Income Tax Appellate Tribunal, Madras C Bench, Chennai dated 21.03.2014 passed in ITA No.2234/Mds/2013 and against the order of the Commissioner of Income Tax(Appeals) (Central)-II, Chennai, dated.31/10/2013 made in ITA.405/13-14 and against the order of the Assistant Commissioner of Income Tax, Company circle I(4), Chennai, dated 7/12/2011 made in PA/GIR.NO.AAAC55085Q and against the Commissioner of Income Tax, Chennai-I, Chennai dated 27/9/2010 made in C.No.218(24)/CIT-I/263/2010-11 for the assessment year 2006-07.

For Appellant : Mr.T.Ravikumar
Senior Standing Counsel

For respondent : Mr.Sivaraman

JUDGMENT

(Delivered by DR.VINEET KOTHARI, J.)

The Court was held by Video Conference, as per the Resolution of the Full Court dated 3 July 2020, by Judges at the respective residence offices and the counsel, staff of the Court appearing from their respective residences.

2. Mr.T.Ravikumar, learned Senior Standing Counsel appearing for the appellant Revenue submitted that vide paragraph 6 of the order of the Tribunal, the Tribunal has held that disallowance of Rs.2.00 Lakhs in the facts and circumstances of the case, would be appropriate under Section 14A of the Act, which enables

the Revenue to disallow the expenditure incurred in relation to earning an income which is exempt from payment of tax.

3. The order of the Tribunal in Paragraph 6 is quoted below for reference:

> 6. We have heard the submissions made by the representatives of both the sides and have also perused the orders of the authorities below. It is not disputed that the assessee has made investment to the tune of Rs.50.00 Crores in the shares of a private limited, un-listed companies from its own sources. It is not the case of Revenue that the assessee has made investments from interest bearing funds. During the AY under consideration, the assessee has made investment of ~2.36 Crores in the rights issue of M/s.Saregama India P. Ltd. The assessee is having investment portfolio of Rs.50.86Crores and these investments have been made over a period of time. The assessee must have been spending some amount in managing the portfolio. The CIT(Appeals) has made an estimation of Rs.10.00 Lakhs. Since the assessee has only invested in private limited, un-listed companies and one of the companies in which the assessee has made investment is its own group concern, we are of the view that the addition made by the CIT (Appeals) is on the higher side. In the facts of the case, we are of the considered opinion that Rs.Two Lakhs is just and reasonable amount towards dis-allowance u/s.14A of the Act.

4. Mr.Sivaraman, learned counsel for the Assessee also submitted that no question of law arises in the present case requiring consideration of this Court under Section 260A of the Act.

5. Having heard the learned counsel for both sides, we are of the clear opinion that the findings of the Tribunal given in paragraph 6 of the order quoted above, do not give rise to any substantial question of law in the present appeal under Section 260A of the Act.

6. The extent of expenditure to be disallowed under Section 14A of the Act would naturally depend upon the income earned by the Assessee and spending that income and extent of exemption they have drawn. Since the Tribunal has discussed the relevant facts in paragraph 6 quoted above, we do not find any perversity in the order passed by the Tribunal and the disallowance made

under Section 14A of the Act appears to be just and reasonable and therefore, we do not find any substantial question of law in the present appeal by the Revenue, which requires our further consideration under Section 260A of the Act. Accordingly, the present appeal is liable to be dismissed and the same is dismissed. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Commissioner of Income Tax, Chennai

2.The Income Tax Appellate Tribunal, Madras C Bench

3.The Commissioner of Income Tax(Appeals)(Central-II), Chennai

4.The Assistant Commissioner of Income Tax,
Company Circle I(4), Chennai.

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CA(CO)
RV(23/9/2020)