

आयकर अपीलीय अधिकरण, 'A/SMC' न्यायपीठ, चेन्नई ।

**IN THE INCOME TAX APPELLATE TRIBUNAL
"A/SMC" BENCH, CHENNAI**

श्री. चंद्र पूजारी लेखा सदस्य , के समक्ष ।

BEFORE SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER

आयकर अपील सं./I.T.A.No.2482/Mds/2016

(निर्धारण वर्ष / Assessment Year:2012-13)

M/s.Powermatic Packaging (P)
Ltd.,
DP 34,Industrial Estate,Guindy
Chennai-600 032.

Vs. The Income Tax Officer,
Corporate Ward 5(2),
Chennai.

PAN:AACCP4735A

(अपीलार्थी / Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by

: Mr.R. Kumar, Advocate

प्रत्यर्थी की ओर से/Respondent by

: Mr. Shiva Srinivas, JCIT

सुनवाई की तारीख/ Date of hearing

: 30.11.2016

घोषणा की तारीख /Date of Pronouncement

: 09.01.2017

आदेश / ORDER

PER CHANDRA POOJARI, ACCOUNTANT MEMBER:

This appeal is filed by the Assessee, aggrieved by the order of the Learned Commissioner of Income Tax(A)-3, Chennai, dated 30.06.2016 in ITA No.35/2015-16/CIT(A)-3.

2. The main grievance of the assessee in this appeal is with regard to sustenance of disallowance of ₹ 2,63,265/- made by the AO invoking the 3rd Limb of Rule 8D of the Income Tax Rules, 1962.

3. The facts of the issue are that the assessee made an investment of ₹5,26,53,000/- to M/s.Lords Mint Ltd. According to assessee, since income earned from this investment is exempted from income tax, the assessee was asked to explain why disallowance u/s.14A r.w.r.8D should not be made. In response, the assessee submitted that the assessee has not earned any dividend income from the investment during the year under consideration. The AO did not agree with the submissions of assessee and invoked the provisions of the section 14A r.w.r 8D of the Rules. Aggrieved, the assessee carried the appeal before the Ld.CIT(A), who confirmed the disallowance made in accordance with Rule 8D r.w.s.14A of the Act. Aggrieved with the order of lower authorities, the assessee came before us.

4. At the time of hearing, Id.A.R submitted that the assessee is liable to pay tax at book profit u/s.115JB of the Act and according to him, provisions of the section 14A have no application while computing the business profit u/s.115JB of the Act. He relied on the judgement of M/s.Brakes India Ltd. Vs. DCIT in 46 ITR (Tri) 212(Chennai).

5. On the other hand, Id.D.R relied on the order of CIT(A) and also submitted that the AO applied provisions of the section 14A r.w.r.8D both in normal computation of income of assessee and book profit u/s.115JB of the Act.

6. We have heard both the parties and perused the material on record. As rightly pointed out by the Id.A.R, this issue came for consideration before this Tribunal in the case of M/s.Brakes India Ltd. Vs. DCIT cited supra wherein held as follows:-

"We have heard both parties and perused the material on record. This issue of disallowance made by the Assessing Officer for this assessment year by invoking the provisions of section 14A read with rule 8D, was in normal computation also. In our opinion, disallowance made under section 14A read with rule 8D cannot be added while computing the book profit under section 115JB of the Act that the disallowance is only for the purpose of computing taxable income of the assessee in the normal course. There is no provision in the Act to add these kind of disallowance while computing book profit under section 115JB and it cannot change the book profit on this count. Therefore, even if there is an addition in view of provision under section 14A read with rule 8D, that cannot be added back to compute the book profit under section 115JB. This ground is allowed."

In view of the above order of the Tribunal, we are of the opinion that by computing the book profit, there cannot be application of section 14A read with rule 8D of Rules. Since the assessee's income was computed u/s.115JB of the Act and the application of Sec.14A of the

Act while computing the normal income of assessee does not arise.

Accordingly, this ground is partly allowed.

7. In the result, appeal of the assessee is partly allowed.

Order pronounced in the open court on 09th January, 2017 at Chennai.

Sd/-
(चंद्र पूजारी)
(CHANDRA POOJARI)
लेखा सदस्य /ACCOUNTANT MEMBER

Chennai,
Dated the 09th January, 2017.

K S Sundaram.

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

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|--------------------------|------------------------------|-------------------------|
| 1. अपीलार्थी/Appellant | 3. आयकर आयुक्त (अपील)/CIT(A) | 5. विभागीय प्रतिनिधि/DR |
| 2. प्रत्यर्थी/Respondent | 4. आयकर आयुक्त/CIT | 6. गार्ड फाईल/GF |