

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई  
IN THE INCOME TAX APPELLATE TRIBUNAL  
'A' BENCH : CHENNAI

श्री एन.आर.एस. गणेशन, न्यायिक सदस्य एवं  
श्री इंटूरी रामा राव, लेखा सदस्य के समक्ष  
[BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND  
SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER]

आयकर अपील सं./I.T.A. No.884/CHNY/2019  
निर्धारण वर्ष /Assessment year : 2015-2016.

M/s. Chettinad Holdings Pvt. Ltd, **Vs.** The Deputy Commissioner of  
No.603, 5<sup>th</sup> floor, Income Tax,  
Rani Seethai Hall, Central Circle 3(2)  
Anna Salai, Chennai.  
Chennai 600 006.

**[PAN AAEC 6624R]**  
**(अपीलार्थी/Appellant)**

**(प्रत्यर्थी/Respondent)**

अपीलार्थी की ओर से/ Appellant by : Shri. R. Vijayaraghavan, Adv  
प्रत्यर्थी की ओर से /Respondent by : Shri. Lalmalsawma Pachuau,  
IRS, JCIT.

सुनवाई की तारीख/Date of Hearing : 17-06-2019  
घोषणा की तारीख /Date of Pronouncement : 25-06-2019

**आदेश / ORDER**

**PER INTURI RAMA RAO, ACCOUNTANT MEMBER**

This is an appeal filed by the Assessee directed against the order of the Commissioner of Income Tax (Appeals)-19, Chennai ('CIT(A)' for short) dated 19.02.2019 for the Assessment Year (AY) 2015-16.

**2.** The Assessee raised the following grounds of appeal:

*"1. The order of The Commissioner of Income tax (Appeals) is contrary to law, facts and in the circumstances of the case.*

*2. The Commissioner of Income tax (Appeals) erred in confirming the disallowance u/s.14A of Rs.1,24,89,204/-.*

*3. The Commissioner of Income tax (Appeals) erred in enhancing the disallowance from Rs.82,83,790/- made by the Assessing Officer without giving proper notice to the Appellant for enhancing the disallowances.*

*4. The Commissioner of Income tax (Appeals) ought to have appreciated that the Assessing Officer has not recorded his satisfaction with cogent reasons for rejecting the claim of the Assessee that no expenditure was incurred for the purpose of earning exempt income.*

*5 The Commissioner of Income tax (Appeals) erred in disallowing a sum of Rs.1,24,89,204/- out of the administrative expenditure under Rule BD(2)(iii), when the assessee had not incurred any expenditure for earning the dividend income.*

*6 The Commissioner of Income tax (Appeal) ought to have appreciated that all the expenses incurred by the Assessee has no relation to the earning of the dividend and hence no part of the expenditure can be disallowed under Rule 8D.*

*7 The Commissioner of Income tax (Appeal) ought to have appreciated that the Appellant had received dividend only from one company which was automatically credited to the Account of the Assessee and hence no expenditure was incurred by the Assessee for earning income and hence no disallowance u/s.14A is called for.*

*8 The Appellant craves leave to file additional grounds at the time of hearing".*

**3.** The brief facts of the case are as under:

The appellant namely M/s. Chettinad Holdings Pvt. Ltd is a company incorporated under the provisions of the Companies Act, 1956. It is engaged in the business of investments. The return of

income for the assessment year 2015-16 was filed on 31.10.2015 disclosing total income of Rs. 6,52,51,170/-. Against the said return of income, the assessment was completed by the Assistant Commissioner of Income Tax, Central Circle- 3(2), Chennai (hereinafter called "AO") vide order dated 12.12.2017 passed u/s. 143(3) of the Income Tax Act, 1961 (in short 'the Act') at total income of Rs. 7,35,34,960/-. While doing so, the AO made disallowance of ₹82,83,790/- invoking the provisions of Section 14A of the Act. During the course of assessment proceedings, the Assessing Officer noticed that the appellant company received dividend income of ₹1,28,02,925/- during the previous year relevant to assessment year under consideration. Assessee made a fresh investments of ₹53,31,91,068/- and the total investments as on 31.3.2015 is ₹276,44,36,260/- as against investments made of ₹223,12,45,192/- as on 31.03.2014. Therefore the Assessing Officer had invoked the provisions of Section 14A of the Act rejecting the contention of the assessee that investments were made only in subsidiary companies and the same were strategic investments and the provisions of Section 14A of the Act are not applicable. Accordingly, the Assessing Officer computed the disallowance under Sub Rule (2) of Rule 8D of ₹2,31,20,089/-, however restricted the disallowance to the extent of actual expenditure before depreciation of ₹82,83,790/-.

4. Being aggrieved, an appeal was preferred by the assessee-company before the Id.CIT(A) who vide impugned order rejected the contention that provisions of Section 14A of the Act have no application in case of strategic investments, placing reliance on the decision of Hon'ble Supreme Court in the case of *Maxopp Investment Ltd vs. CIT (2018) 91 taxmann.com 154*. Thus upheld the applicability of provisions of Section 14A of the Act and worked out the disallowance as per Rule 8D of ₹1,24,89,204/-. The Id. CIT(A) also considered the fact that amendment to provisions of Rule 8D of the Rules are applicable only from the assessment year 2016-2017 and not for the assessment year 2015-2016.

5. Being aggrieved by the above decision of the CIT(A), the appellant is in appeal before us challenging the correctness of the order of the CIT(A). It is submitted by the Id. Counsel Shri. R. Vijayaraghavan that when no expenditure was incurred for earning dividend income, the provisions of Section 14A of the Act cannot be invoked. He further submitted that the Id. CIT(A) ought not to have enhanced the disallowance u/s.14A of the Act from ₹82,83,790/- to ₹1,24,89,204/- without giving an opportunity of being heard and the Assessing Officer ought not to have made resort to provisions of Section 14A of the Act without recording the satisfaction with cogent

reasons as to why the claim of the assessee company that no expenditure was incurred for earning exempt income is incorrect.

**6.** On the other hand, the Id. Sr. Departmental Representative placed reliance on the orders of lower authorities.

**7.** We heard the rival submissions and perused the material on record. The only issue involved in the present appeal is with regard to the computation of amount of disallowance u/s.14A of the Act. The reasoning of the Id. CIT(A) is that the provisions of Section 14A of the Act are applicable even in the case of strategic investments is supported by the view expressed by the Hon'ble Supreme Court in the case of *Maxopp Investment Ltd (supra)* and therefore we uphold the applicability of the provisions of Section 14A of the Act even in the case of strategic investments. As regard to the contention of the assessee that the Assessing Officer had not recorded satisfaction with regard to correctness of the claim of the assessee company that no expenditure was incurred to earn exempt income cannot be accepted. The Assessing Officer vide para 5 of the assessment order made a categorical finding that claim of the assessee cannot be accepted in view of the fact that managerial/clerical expenses and office expenditure are incurred in earning exempt income. Further, it is a matter of record that assessee's main business is only investments which means all the expenditure are incurred in connection with

earning of exempt income. Therefore the grounds of appeal challenging that there is no findings of the Assessing Officer on the correctness of the claim of the assessee that no expenditure was incurred for earning exempt income stands dismissed. As regards to the ground that the Id. CIT(A) has enhanced the amount of disallowance from 82,83,790/- to ₹1,24,89,204/- without giving an opportunity of being heard is also not tenable for a reason that the Id. CIT(A) had computed the amount of disallowance applying clause (iii) of Rule 8D(2) as it stood prior to its amendment w.e.f. 02.06.2016. Moreover the Id. CIT(A) had computed the disallowance applying unamended provisions of Rule 8D, whereas the Assessing Officer computed the disallowance u/s.14A of the Act under amended provision of rule which is applicable from assessment year 2016-2017. Thus, the amount of disallowance was enhanced only on account of application of correct provisions of rules which cannot be said to be new item of addition. Thus the issue had undergone the process of assessment by the Assessing Officer. Furthermore, the Id. CIT(A) had agreed in principle that the amount of disallowance cannot exceed exempt income and actual expenditure. It is needless to mention that the term expenditure, includes depreciation also, in as much as, the depreciation is also an item of expenditure more particular when the sole business of the assessee is only investment. The entire

expenditure incurred is said to have incurred only for the purpose of earning exempt income and therefore the order of the Id. CIT(A) is based on the sound principles of law and plain provisions of Rule 8D and therefore we do not see any reason to interfere with the orders of the lower authorities.

8. In the result, the appeal of the assessee stands dismissed.

Order pronounced on 25th day of June, 2019, at Chennai.

Sd/-

(एन.आर.एस. गणेशन)  
**(N.R.S. GANESAN)**

न्यायिक सदस्य/**JUDICIAL MEMBER**

Sd/-

(इंटूरी रामा राव)

**(INTURI RAMA RAO)**

लेखा सदस्य/**ACCOUNTANT MEMBER**

चेन्नई/Chennai

दिनांक/Dated:25th June, 2019

KV

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        |