

आयकर अपीलिय अधिकरण, 'ए' न्यायपीठ, चेन्नई  
IN THE INCOME-TAX APPELLATE TRIBUNAL 'A' BENCH, CHENNAI  
श्री वी दुर्गा राव न्यायिक सदस्य एवं श्री जी. मंजुनाथा, लेखा सदस्य के समक्ष  
Before Shri V. Durga Rao, Judicial Member &  
Shri G. Manjunatha, Accountant Member

आयकर अपील सं./I.T.A. Nos.599 and 600/Chny/2020  
निर्धारण वर्ष/Assessment Years: 2015-16 & 2016-17

M/s. Chettinad Lignite Transport  
Services Pvt. Ltd., New No. 43, Rani  
Meyyammai Buildings, Race Course,  
Coimbatore 641 018.

The Principal Commissioner of  
Income Tax – 1,  
Coimbatore.

**[PAN:AABCC7357G]**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri B. Ramakrishnan, CA &  
Shri Shrenik Chordia, CA  
प्रत्यर्थी की ओर से/Respondent by : Shri M. Rajan, CIT  
सुनवाई की तारीख/ Date of hearing : 30.12.2021  
घोषणा की तारीख /Date of Pronouncement : 05.01.2022

**आदेश /O R D E R**

**PER V. DURGA RAO, JUDICIAL MEMBER:**

Both the appeals filed by the assessee are directed against separate orders of the Id. Principal Commissioner of Income Tax-1, Coimbatore both dated 05.02.2020 relevant to the assessment years 205-16 and 2016-17.

2. Against the order passed by the Id. PCIT under section 263 of the Income Tax Act, 1961 ["Act" in short], both the appeals were filed on 26.05.2020, thereby, there is a delay of 41days in filing the appeals.

The Id. Counsel for the assessee has submitted that from the date of passing the revision order and till the date of filing the appeal, it is "COVID-19" time and also submitted that as per the directions of the Hon'ble Supreme Court, there is no delay. The Id. DR has not raised any objection. Thus, the delay is condoned for both the appeals and admitted for adjudication.

3. So far as merits of the case are concerned, the Id. Counsel for the assessee has submitted that the case of the assessee was selected for limited scrutiny only and therefore, the Id. PCIT has erroneously invoked the provisions of section 263 of the Act and directed the Assessing Officer to re-do the assessment by considering the method for determining the amount of expenditure brought in force w.e.f. 02.06.2016. It was submitted that the revision order is not correct and the amended provision has no application to the assessment year 2015-16. He relied on various case law. He also further submitted that the Id. PCIT has given a finding as to how to compute the disallowance under section 14A of the Act and directed the Assessing Officer to re-do the assessment and the same is contrary to the law.

4. On the other hand, the Id. DR has submitted that the case of the

assessee was selected for limited scrutiny relating to expenses incurred by the assessee, which includes expenditure relating to dividend income also. Therefore, the Assessing Officer has not examined all the expenditure and thus, the assessment order passed by the Assessing Officer was erroneous and prejudicial to the interest of Revenue and it was submitted that the Id. PCIT has rightly invoked the power conferred under section 263 of the Act.

5. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below. It is a fact that the case of the assessee was selected for limited scrutiny for examination of entire expenditure incurred by the assessee. The Assessing Officer has looked into the expenditure incurred by the assessee limiting to earning of dividend income. Therefore, in our opinion, the order passed by the Assessing Officer is erroneous and prejudicial to the interest of the Revenue. So far as merits of the case are concerned, we are of the opinion that the Assessing Officer has to examine the expenditure incurred by the assessee with reference to the dividend income without influencing the observations made by the Id. PCIT with respect to the amended Rule w.e.f. 02.06.2016. Accordingly, we modify the order passed by the Id. PCIT to the extent

as indicated above.

6. So far as I.T.A. No. 600/Chny/2020 is concerned, the Id. Counsel for the assessee has submitted the assessment was completed under section 143(3) of the Act dated 28.12.2018 after considering the details furnished by the assessee. It was further submission of the Id. Counsel that the Id. PCIT has erroneously invoked the provisions of section 263 of the Act and gave a finding that as per amended Rule 8D(2)(iii) r.w.s. 14A of the Act w.e.f. 02.06.2016, the disallowance of expenses has to be computed @1% of the annual average of the monthly averages of the opening and closing balances of the value of investment and directed the Assessing Officer to re-do the assessment, which is contrary to the law.

7. On the other hand, the Id. DR strongly supported the order passed by the Id. PCIT.

8. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below. On perusal of the assessment order, the Assessing Officer has failed to examine the entire expenditure incurred by the assessee including the expenditure relating to dividend income. From the assessment records,

the Id. PCIT has noted that the assessee has earned dividend income of ₹.27,16,300/- during the period relevant to the assessment year. Moreover, as on 31.03.2016, the non-current investments stood at ₹.249,78,39,023/- and having earned the exempt income, the expenditure incurred in relation to income not includible in the total income is liable to be disallowed as per the provisions of section 14A r.w.s. Rule 8D, which was not done in the assessment order. Therefore, the Id. PCIT was of the opinion that the order passed by the Assessing Officer is erroneous and prejudicial to the interest of the Revenue. After considering the revision order passed under section 263 of the Act as well as assessment order, it is amply clear that the assessment order passed by the Assessing Officer is erroneous and prejudicial to the interest of the Revenue and the Id. PCIT has rightly directed the Assessing Officer to re-do the assessment in accordance with law. One of the arguments raised by the Id. Counsel for the assessee is that while passing the order under section 263 of the Act, the Id. PCIT has given a finding that 1% of the annual average of the monthly averages of the opening and closing balances of the value of investment has to be disallowed is contrary to the statute. We find from the revision order that the Id. PCIT has not given any finding and it is

only his observation and explaining the legal position and directed the Assessing Officer to re-do the assessment. In our opinion, the Id. PCIT has expressed his opinion on the issue and there is every possibility that the Assessing Officer obviously influenced by the opinion expressed by the Id. PCIT. Accordingly, we modify the order passed by the Id. PCIT and direct the Assessing Officer to pass fresh assessment order in accordance with law without influencing the observations made by the Id. PCIT. Accordingly, the appeal filed by the assessee is dismissed.

9. In the result, both the appeals filed by the assessee are dismissed.

Order pronounced on 05<sup>th</sup> January, 2022 at Chennai.

Sd/-  
(G. MANJUNATHA)  
ACCOUNTANT MEMBER

Sd/-  
(V. DURGA RAO)  
JUDICIAL MEMBER

Chennai, Dated, 05.01.2022

Vm/-

आदेश की प्रतिलिपि अग्रेषित/Copy to: 1. अपीलार्थी/Appellant, 2. प्रत्यर्थी/ Respondent, 3. आयकर आयुक्त (अपील)/CIT(A), 4. आयकर आयुक्त/CIT, 5. विभागीय प्रतिनिधि/DR & 6. गार्ड फाईल/GF.