

Income Tax Appellate Tribunal - Mumbai

Daga Global Chemicals Ltd, Mumbai vs Assessee on 1 January, 2015

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IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCHES 'D' MUMBAI

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BEFORE SHRI JOGINDER SINGH, JUDICIAL MEMBER AND
SHRI RAJENDRA, ACCOUNTANT MEMBER

. / ITA No.5592/MUM/2012
[[/Assessment Year: 2009-10

M/s Daga Global Chemicals Pvt. Ltd.(Formerly Known as Daga Global Chemicals Ltd.),
Asst. Commissioner Income Tax-9(1),
Room No.223, Aaykar

Vs.

101, Mahek Plaza, Off L.T. Road, Maharashtra, Nagar Lane, Borivali(W), Mumbai-400092
Bhavan, Marine Lines, Mumbai-400020

([/Assessee) (× /Respondent)
P.A. NUMBER : AAACD2233M

[/Revenue by : Dr. K.Shivaram & Shri
Rahul Hakani

× /Revenue by Shri Akhilendra Yadav

/ 01/01/2015

Date of Hearing :

/ 01/01/2015

Date of Pronouncement :

ORDER

PER JOGINDER SINGH, JM:

The assessee is aggrieved by the impugned order dated 02/07/2012 of the Id. First Appellate Authority, Mumbai. The assessee has raised the following grounds:

2 M/s Daga Global Chemicals Pvt. Ltd,

1.The Id. Commissioner of Income tax (Appeals) erred in confirming disallowance of Rs.14,58,112/- u/s 14A r.w. Rule 8D without appreciating that no expenditure directly or indirectly was incurred during this year for earning exempt income and investments in shares were made in earlier years out of own fund and not out of borrowed found and hence disallowance u/s.14A r.w. Rule 8D may be deleted.

2. The learned CIT(A) failed to appreciate that dividend income is directly credited to Bank Account and appellant does not have to incur any expenditure for earning exempt income and hence disallowance u/s. 14A r.w. Rule 8D may be deleted.

3. The learned CIT(A) failed to appreciate that interest expenditure of Rs.2,35,49,746/- has no nexus with earning of exempt income as the investments on which exempt income is earned is out of own funds and hence disallowance u/s14A r.w. Rule8D may be deleted.

4. The learned CIT(A) erred in holding that A.O. duly recorded satisfaction before invoking section 14A r.w. Rule 8D without appreciating the fact that assessee had shown bifurcation of Financial expenses to A.O. to show that interest expense was not incurred for investment in shares or for earning exempt dividend income and A.O. did not reject the same and still A.O. applied Rule 8D in an automatic fashion and hence, no satisfaction was recorded by A.O. as required u/s 14A before invoking Rule 8D.

3 M/s Daga Global Chemicals Pvt. Ltd,

5. The learned CIT(A) failed to appreciate that disallowance u/s 14A read with Rule 8D cannot exceed exempt income.

6. Without prejudice to above, dividend received during this year is only Rs.1,82,262/- and demat charges are Rs.1,485/-, hence the disallowance may be restricted to maximum Rs.1,485/-.

2. At the time of hearing, Dr. K.Shivaram alongwith Shri Rahul Hakani, ld. counsels for the assessee advanced their arguments which are identical to the ground raised by submitting that no expenditure directly or indirectly was incurred by the assessee for earning exempt income and further the investment in shares was made in earlier years out of own funds and not out of borrowed funds, therefore, no disallowance u/s 14A r.w. Rule 8D is to be made.

2.1. On the other hand, Shri Akhilendra Yadav strongly defended the conclusion arrived at by the ld. Commissioner of Income tax (Appeals) by contending that a well reasoned order has been passed by the ld. First Appellate Authority as apportionment of expenditure for earning the dividend income was done as per the provisions of the Act. It was pleaded that section 14A r.w. Rule 8D of the Rules is clearly applicable to the facts of the present appeal.

2.2. We have considered the rival submissions and perused the material available on record. The facts, in brief, are that the assessee is a limited company, engaged in trading of bulk and fine, chemicals, solvent and pharmaceutical raw materials declared its 4 M/s Daga Global Chemicals Pvt. Ltd, .

income at Rs.74,40,000/- on 26/09/2009. The assessee credited dividend income of Rs.1,82,262/- in its profit and loss account. The Assessing Officer while framing the assessment invoke section 14A r.w. Rule 8D by contending that assessee claimed various expenses which are related to exempt

income in its profit & loss account and disallowed Rs.14,58,412/-. On appeal, before the Id. Commissioner of Income tax (Appeals) broadly the stand taken in the assessment order was affirmed against which the assessee is in further appeal before this Tribunal. The totality of facts clearly indicates, as claimed by the assessee that no borrowed funds were utilized for earning the exempt income by the assessee and further the dividend were directly credited in the bank account of the assessee and no expenditure was claimed. What it may be, we find that the assessee only received Rs.1,82,362/- as dividend income, therefore, there is no question of disallowance of Rs.14,58,412/- by invoking section 14A r.w. Rule 8D under the facts available on record. It was also explained by the Id. counsel for the assessee that on identical fact in earlier years, no disallowance was made. In the present assessment year also, no borrowed funds were invested by the assessee for making investment in shares or for earning dividend income. At best, if any disallowance could be made that can be restricted to Rs. 1,485/- which were claimed as demat charges. Disallowance u/s 14A r.w. Rule 8D cannot exceed the exempt income. In view of this fact, we find merit in the claim of the assessee. The appeal of the assessee is therefore, allowed.

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M/s Daga Global Chemicals Pvt. Ltd,

Finally, the appeal of the assessee is allowed.

This order was pronounced in the open court in the presence of Id. Representatives from both sides at the conclusion of the hearing on 01/01/2015.

Sd/-
(RAJENDRA)
ACCOUNTANT MEMBER

Sd/-
(JOGINDER SINGH)
JUDICIAL MEMBER

MUMBAI, DATED - 01/01/2015
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/Copy

of the Order forwarded to :

1. / The Appellant
2. × / The Respondent.
3. () / The CIT(A) -
4. / CIT

5. , , / DR, ITAT, Mumbai

6. [/ Guard file.

/ BY ORDER, × //True Copy// / (Dy./Asstt. Registrar) , / ITAT, Mumbai