

**IN THE INCOME TAX APPELLATE TRIBUNAL  
HYDERABAD 'A' BENCH : Hyderabad**

**(Through Video Conference)**

**Before Smt. P. MADHAVI DEVI, Judicial Member  
and  
Shri L.P. SAHU, Accountant Member**

**ITA No. 2291/Hyd./2018  
Assessment Year: 2014-15**

Dy.CIT, Circle 16(1)  
Hyderabad

vs. M/s Lanco Hydro Power Limited  
Hyderabad

[PAN: AABCV6385R]

**(Appellant)**

**(Respondent)**

**For Revenue:** Smt. N. Esther, D.R.

**For Assessee:** Shri P. Murali Mohana Rao, AR.

**Date of Hearing** : 02/08/2021

**Date of Pronouncement** : 30/08/2021

**ORDER**

**PER L.P. SAHU, A.M.**

This appeal of Revenue is directed against the order of the CIT(A)-4, Hyderabad dated 28.09.2018 pertaining to A.Y. 2014-15.

2. Facts of the case in brief are that the assessee is a company, filed its return of income for the AY 2014-15 on 29.11.2014 declaring total loss at Rs.3,97,87,752/-. Subsequently the case was selected for scrutiny and the assessment was completed u/s 143(3) of the Income Tax Act, 1961[in short 'the Act'] on 28.11.2016 determining the total income at Rs. 10,04,248/- by

disallowing u/s 14A of Rs. 4,07,92,000/-. Further, it was noticed that the disallowances u/s 14A was added to the normal income only and the same was not added back to the book profit as per explanation (i)(c) of sec. 115 JB of the Act. Since the mistake was apparent on record, a rectification order u/s 154 of the Act was passed on 27.05.2017 by disallowing an amount of Rs. 4,07,92,000/- u/s 14A of the Act. Aggrieved assessee went in appeal before the CIT(A). The CIT(A) deleted the addition made by the Assessing Officer stating that since there is no exempt income received or receivable during the relevant A.Y., the provisions of sec.14A r.w. rule 8D are not applicable.

3. Aggrieved by the order of CIT(A), the Revenue is in appeal before us by raising the following grounds :

- 1. The ld. CIT(A) erred in deleting the disallowance u/s 14A of Rs. 4,07,92,000/-*
- 2. The Ld. CIT(A) erred in ignoring CBDT's Circular No.5 of 2014 dated 11.02.2014.*
- 3. The Ld. CIT(A) erred in ignoring' the Supreme Court decision in the case of CIT vs. Walfort Share of Stock Brokers P Ltd [326 ITR 1], wherein it was held that the mandate of section 14A was to curb the practice of claiming deduction of expenses incurred in relation to exempt income against taxable income and at the same time avail of the tax incentive by way of exempt income without making any apportionment of expenses incurred in relation to exempt income.*
- 4. Without prejudice to the above grounds, the CIT(A) erred in ignoring that this expenditure incurred in relation to exempt income is also not allowable u/s 37(1) of the Act as it cannot be said to be incurred wholly and exclusively for the assessee's business as claimed.*
- 5. The Ld. CIT(A) erred in ignoring the disallowance has been made in computation u/s 115 JB of the IT Act.*

2. There is no dispute with regard to the fact that the assessee company did not earn any exempt income during the year under consideration. In fact, in the grounds, duly authorised by the Ld. CIT(A), the Revenue has not objected

to the claim of the assessee that no exempt income was earned during the year under consideration. An identical issue had come for adjudication before the ITAT Hyderabad in number of cases wherein the Bench observed that section 14A refers to disallowance of expenditure "in relation to income" which pre-supposes existence of income in the form of dividend as otherwise section 14A cannot be pressed into service. In the following cases, the ITAT, Hyderabad Bench had taken an identical view.

- (i) DCIT vs. M/s Modi builders and realtors P Ltd (ITA 1167/Hyd/17 dt 03.04.2017)
- (ii) Vinayak Steels Limited vs. ITO (ITA No. 103/Hyd/2017, dated 04.04.2018) and
- (iii) M/ s. Kamadhenu Sukrit Pvt Ltd vs. ITO (ITA No.460/Hyd/2017, dated.22.11.2017)

3. Since the view taken by the Ld. CIT(A) is in consonance with the view taken by the ITAT Hyderabad Bench, in the absence of any direct decision cited by the Learned Departmental Representative holding a contrary view, we do not find any infirmity in the orders passed by the Ld. CIT(A). Accordingly, all the grounds raised by the Revenue are rejected.

3.1. In regard to ground no.5, (for MAT issue u/s 115 JB) in regard to the disallowance made u/s 14A; once we have dismissed the appeal of the revenue by holding that there is no exempt income, no addition can be called for. In view of this, the ground no.5 raised by the revenue is consequential in nature.

Thus, this ground is also dismissed.

4. In the result, Revenue's appeal is dismissed.

Order pronounced on 30/08/2021.

**Sd/-**

**(P. MADHAVI DEVI)**  
**JUDICIAL MEMBER**

**Sd/-**

**(L.P. SAHU)**  
**ACCOUNTANT MEMBER**

Dated: 30<sup>th</sup> August, 2021

\*gmV

Copy of Order forwarded to:

1. M/s Lanco Hydro Power Ltd., Lanco House, Plot no.4, Software Units Layout, Hitech City, Madapur, Hyderabad 500 081, Telangana
2. ACIT, Circle 16(1), , Hyderabad
3. ACIT, Range 16, Hyderabad.
4. CIT(A)-4, Hyderabad
5. Pr.CIT-4, Hyderabad.
6. D.R. ITAT Hyderabad
7. Guard File