

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCHES "H", MUMBAI**

BEFORE SHRI B.R.BASKARAN (AM) AND SHRI RAM LAL NEGI (JM)

**ITA No 5853/MUM/2014
Assessment Year: 2010-11**

Hincon Finance Limited, Hincon House, 11 th floor, 247 Park, L.B.S.Marg, Vikhroli(West), Mumbai- 400083. PAN:- AAACH2665M	Vs.	The DCIT-10(1), 4 th Floor, Aayakar Bhavan, New Marine Lines, Mumbai- 400020.
(Appellant)		(Respondent)

Appellant by : Shri. Abbasi Kapasi
Respondent by : Shri. Siddarth B.S.Meena

Date of Hearing: 10/05/2016
Date of Pronouncement: 11/05/2016

ORDER

PER RAM LAL NEGI, JM

The appeal filed by the assessee is directed against order dt. 17/07/2014 passed by the Ld. CIT(Appeals)-21, Mumbai for the assessment year 2010-11.

2. The only issue to be decided in this appeal relates to disallowance made u/s 14A of the Act.

3. The Ld. AR submitted that the AO has computed disallowance made u/s 14A of the Act by following Rule 8D of the I.T Rules. The disallowance was made under Rule 8D(2)(iii) for administrative expenses computed @ 0.5% of the average value of investment.

4. The Ld. AR submitted that the inadmissible portfolio Management fees of the assessee includes strategic investment made in the group companies. He submitted that the co-ordinate bench of the Tribunal, in the case of M/s. J.M.Financial Ltd. (ITA No. 4521/M/2012) and Gareware Wall Ropes Ltd. (ITA No. 5408/M/2012), has held that the strategic investment is to be excluded for computing of average value of investment.

5. The Ld. AR further, submitted that the identical issue has been considered by the co-ordinate bench of the Tribunal, in assessee's own case relating to Asst. year 2009-10 and the Tribunal, vide its order dt. 17/10/2014 passed in ITA No. 2157/M/2013, has restored the matter to the file of the Assessing Officer for re-computing the disallowance.

6. We heard the Ld. DR and perused the record, we notice that the identical issue has been restored to the file of the AO for considering the plea of the assessee that the investment made in the shares of Hindustan Construction Company is a strategic investment and also to recompute disallowance u/s 14A in the light of the decision rendered by the Tribunal (supra).

7. Consistent with the view taken by the co-ordinate bench in the A.Y. 2009-10, we set aside the order of the Ld. CIT(A) and restore this issue to the file of the AO with the direction to examine the same afresh in accordance with the directions issued by the co-ordinate bench in A.Y. 2009-10.

8. In the result the appeal of the assessee for the A.Y. 2010-11 is treated as allowed for statistical purpose.

Order pronounced in the open court on 11th May, 2016

Sd/-
(B.R.BASKARAN)
ACCOUNTANT MEMBER

Sd/-
(RAM LAL NEGI)
JUDICIAL MEMBER

मुंबई Mumbai; दिनांक Dated:11/05/2016

आदेश प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT(A)-
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR,
ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / **ITAT, Mumbai**

Pramila