

**आयकर अपीलिय अधिकरण, मुंबई न्यायपीठ 'SMC', मुंबई ।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**MUMBAI BENCHES "SMC", MUMBAI**  
**Before Shri Shamim Yahya, Accountant Member**

ITA No.7221/Mum/2016 : Asst.Year 2012-2013

Dy.Commissioner of Income-tax Central Circle 3(3) Mumbai.	<b>बनाम/</b> Vs.	M/s.Shreyas Shipping & Logistics Ltd. 2 <sup>nd</sup> Floor, Geetmala Complex Near Shah Industrial Estate Off Deonar Village Road, Govandi Mumbai – 400 088. <b>PAN : AAACS7927B.</b>
(अपीलार्थी /Appellant)		(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से /Appellant by : **Shri B.Satyanarayana Raju (Sr.DR)**  
प्रत्यर्थी की ओर से /Respondent by : **Shri Vijay Mehta**

सुनवाई की तारीख / Date of Hearing : 16.05.2017	घोषणा की तारीख / Date of Pronouncement : 03.07.2017
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**आदेश / ORDER**

This appeal by the Revenue is directed against the order of learned CIT(A) dated 27.09.2016 and pertains to assessment year 2012-2013.

2. The grounds of appeal read as under:-

*"i. On the facts and circumstances of the case and in law, the learned CIT(A) was erred in deleting the addition by way of disallowing a sum of Rs.36,61,687/- made by the AO relating to disallowance under section 14A rw rule 8D of the I.T. Act, 1961.*

*ii. The appellant craves to leave to add to amend and/ or to alter any of the grounds of appeal, if need be."*

3. I have heard both the counsel and perused the records. At the outset, Ld. Counsel of the assessee submitted that the issue is squarely covered in favour of the assessee by the decision of Income Tax Appellate Tribunal in assessee's own case for earlier assessment year. Per contra Ld. Departmental representative did not dispute this proportionate.

4. Upon careful consideration I note that the Assessing Officer has made disallowance in this case amounting of Rs.28,34,6827- by invoking the provisions of section 14A. The Ld. CIT(A) has followed the order of Ld. CIT(A) in the preceding assessment year vide order dated 01.09.2014 which reads as under:-

*"i have very carefully considered the matter. As per the provisions of Sec. 115VG, presumptive tax is leviable on the basis of vessel tonnage and thereby no expenses including interest expenses are being claimed or allowed. The condition precedent for invoking sec 14A is not present in the case of the appellant. It is a fact that in the case of the appellant no expenses in the form of interest expenditure has been claimed either against shipping income or against non-shipping income. The gross interest income of Rs.33,45,023/- earned on F.D. with banks has been offered to tax as non-shipping income without claiming any corresponding expenses. This is evident from the details as furnished by the appellant as per Annexure 7 & 7A of the paper book placed on record. It is , therefore, to be agreed that when no expenses are being claimed against the non-shipping income, the question of disallowance vis- a-vis non-shipping income does not arise. Further, the interest expenditure pertains to vessel term loans incidental to the shipping business carried on, there being no direct nexus against the dividend income exempt from tax. On the basis of the said facts and legal position, it is held that the disallowance u/s. 14A is not warranted in the case of the appellant. As held in the case of appellant in the earlier years, this ground is held in favour of the*

*appellant. The AO is directed to delete the disallowance made under s. 14A in a sum of Rs. 78,18,166.*

5. Ld. CIT(A) has noted that since facts and circumstances of the case in the present appeal are similar he was following the aforesaid order.

6. I note that this Tribunal in assessee's own case in ITA. No.7406/Mum/2014 for assessment year 2011-12 vide order dated 03.08.2016 has upheld the aforesaid order of CIT(A). The Tribunal has observed as under:-

*"We have heard the rival submissions and perused the material before us. We find that the AO had made disallowance under section 14A, that the assessee had not claimed any expenditure against the income arising out of non-shipping business that it had opted for TTS for the shipping business, that it had sufficient own funds to make investments. So, we are of the opinion that disallowance made by the AO was not justifiable. If no expenditure was claimed against the exempt income arising out of non-shipping business, the basic ingredient for invoking the provisions of section 14A was absent."*

7. Since Ld. CIT(A) has followed the Tribunal orders in assessee's own case, and revenue has not pointed out that there has been any changed in the law or facts, I uphold the order of the CIT(A).

8. In the result, this appeal by the revenue stands dismissed.

Order pronounced on this 03<sup>rd</sup> day of July, 2017.

Sd/-  
(Shamim Yahya)  
**ACCOUNTANT MEMBER**

मुंबई Mumbai; दिनांक Dated : 03<sup>rd</sup> July, 2017.  
Devdas\*

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT, Mumbai.
4. आयकर आयुक्त / CIT(A), Mumbai
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**