

**IN THE INCOME TAX APPELLATE TRIBUNAL,
MUMBAI BENCH "G", MUMBAI**

**BEFORE SHRI D.T. GARASIA, JUDICIAL MEMBER AND
SHRI RAJESH KUMAR, ACCOUNTANT MEMBER**

**ITA No.5630/M/2015
Assessment Year: 2009-10**

M/s. Yash Raj Films Pvt. Ltd., 5 Shah Industrial Estate, Veera Desai Road, Andheri (West), Mumbai – 400 053 PAN: AAACY1176E	Vs.	The Asst. Comm. of Income Tax, Range 11(1), Mumbai
(Appellant)		(Respondent)

Present for:

Assessee by : Shri Rajesh P. Shah, A.R.
Revenue by : Shri Tufad Ahmad Khan, D.R.

Date of Hearing : 20.09.2017
Date of Pronouncement : 31.10.2017

ORDER

Per D.T. GARASIA, Judicial Member:

The present appeal has been preferred by the assessee against the order dated 28.09.2015 of the Commissioner of Income Tax (Appeals) [hereinafter referred to as the CIT(A)] relevant to assessment year 2009-10.

2. The short facts of the case are that during the year the assessee has earned income of Rs.75,30,868/- from mutual fund which is exempt under section 10(34) of the Income Tax Act. Assessee was asked to explain as to why the corresponding expenditure should not be disallowed. The assessee replied but the Assessing Officer (hereinafter referred to as the AO) did not accept it. The AO held

that assessee has made investments of Rs.28,04,01,707/- in this year. Therefore, he disallowed expenditure being interest expenditure and 0.5% of average investment.

3. Matter carried to the Ld. CIT(A) and the Ld. CIT(A) has partly allowed the appeal.

4. During the course of hearing, the Ld. A.R. submitted that the AO should have disallowed the expenditure in relation to exempt income and not the total income. Only those investments are considered for computation of average value investment which yields the income during the year.

5. The Ld. D.R. submitted that only investment made on 31.03.09 which yield the income has to be considered for calculating the value of investment.

6. We find that Ld. D.R. fairly conceded. In the interest of justice and fairplay, we restore this issue back to the file of AO to decide the average value of investment as per the decision of special bench in the case of ACIT vs. Vireet Investment (P.) Ltd. 82 taxmann.com 415 (Delhi – Trib.) (SB).

7. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 31.10.2017.

Sd/-
(Rajesh Kumar)
ACCOUNTANT MEMBER

Sd/-
(D.T. Garasia)
JUDICIAL MEMBER

Mumbai, Dated: 31.10.2017.

* Kishore, Sr. P.S.

Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The CIT (A) Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.