

आयकर अपीलिय अधिकरण, अहमदाबाद न्यायपीठ 'SMC' अहमदाबाद ।
IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC” BENCH, AHMEDABAD

**BEFORE SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER
& SHRI MAHAVIR PRASAD, JUDICIAL MEMBER**

आयकर अपील सं./I.T.A. No. 1506/Ahd/2016

(निर्धारण वर्ष / Assessment Year : 2012-13)

Vepar Pvt. Ltd. Kaivanna, 9 th Floor, Panchvati Ellisbridge, Ahmedabad 380009	बनाम/ Vs.	I.T.O. Ward -4(1)4 2 nd Floor, Nature View Building, Ashram Road, Ahmedabad 380009
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AAACV3821F		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

अपीलार्थी ओर से /Appellant by :	Shri P. M. Mehta, A.R.
प्रत्यर्थी की ओर से / Respondent by :	Shri Uma Shankar Prasad, Sr.DR

सुनवाई की तारीख / Date of Hearing	31/01/2019
घोषणा की तारीख /Date of Pronouncement	26/04/2019

आदेश/ORDER

PER PRADIP KUMAR KEDIA - AM:

The captioned appeal has been filed at the instance of the assessee against the order of the Commissioner of Income Tax (Appeals)-7, Ahmedabad ('CIT(A)' in short), dated 05.04.2016 arising in the assessment order dated 25.02.2015 passed by the Assessing Officer (AO) under S. 143(3) of the Income Tax Act, 1961 (the Act) concerning AY 2012-13.

2. The grounds of appeal raised by the assessee read as under:

“1. In law and in the facts and circumstances of the appellant's case, the learned CIT(A) has grossly erred in holding that the first ground of the appellant's appeal challenging the validity of the assessment order impugned before him was general in nature and therefore, not required to be adjudicated upon by him.

2. In law and in the facts and circumstances of the appellant's case, the learned CIT(A) has erred in confirming adjustments/disallowance of Rs.19,24,673/- while computing book profit under sec.115JB of the Act when no such addition ought to have been made. The same may be directed to be deleted.”

3. Ground No.1 is dismissed as not pressed.

4. Ground No.2 concerns adjustments/disallowance of Rs.19,24,673/- while computing ‘book profit’ under s.115JB of the Act.

5. With the assistance of the learned AR for the assessee, we find that the AO had made disallowance of Rs.19,24,673/- by resorting to Section 14A of the Act. The disallowance computed with reference to Rule 8D for the purposes of Section 14A was imported to special provisions of Section 115JB of the Act for adjustment of book profits. We find that the issue is no longer *res integra* identical issue came up before the Special bench in ACIT vs. Vireet Investments Ltd. 165 ITD 27 (SB). In the light of the decision of Special bench, we find merit in the plea of the assessee. The AO is accordingly directed to delete adjustments made to the book profit on this score.

6. In parity, the issue requires to be decided in favour of the assessee. The adjustment made by the Revenue authorities in the

book profit towards disallowance under s.14A of the Act is thus directed to be deleted.

7. In the result, Ground No.2 of the assessee's appeal is allowed.

8. In the result, appeal of the assessee is partly allowed.

This Order pronounced in Open Court on 26/04/2019

Sd/-
(MAHAVIR PRASAD)
JUDICIAL MEMBER
Ahmedabad: Dated 26/04/2019

Sd/-
(PRADIP KUMAR KEDIA)
ACCOUNTANT MEMBER

True Copy

S. K. SINHA

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. राजस्व / Revenue
2. आवेदक / Assessee
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त- अपील / CIT (A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद /
DR, ITAT, Ahmedabad
6. गार्ड फाइल / Guard file.

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण, अहमदाबाद ।