

IN THE INCOME TAX APPELLATE TRIBUNAL

AHMEDABAD “B” BENCH

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

**ITA. No: 1755 & 1920/AHD/2014
(Assessment Year: 2009-10)**

Educational Initiatives Pvt. Ltd. A/201, Baleswar Square, Opp. Iskon Temple, S.G. Highway Ahmedabad-380015	V/S	ACIT, Ahmedabad	Circle-4,
(Appellant)		(Respondent)	

PAN: AAACE 9834B

**Appellant by : Shri S. N. Divetia & Mehul Talera, AR
Respondent by : Shri Mudit Nagpal, Sr. D.R.**

(आदेश)/ORDER

Date of hearing : 25 -07-2019

Date of Pronouncement : 29 -07-2019

PER MAHAVIR PRASAD, JUDICIAL MEMBER

1. These two cross appeals filed by the Assessee and the Revenue are directed against the order of the Ld. CIT(A)-VIII, Ahmedabad dated 07.03.2014 pertaining to A.Y. 2009-10. Assessee has taken solely ground in its appeal that

- ld. CIT(A) has grievously erred in law and on facts in upholding the disallowance of Rs. 8,62,215/- u/s. 14A read with Rule 8D.
2. Facts of the case are that the appellant company is a closely held company and engaged in educational research, preparation of papers for educational tests, development of teachers etc. It had filed its return of income for A.Y. 2009-10 on 30.06.2010 declaring total income of Rs. 5,52,67,990/-.
 3. On verification of balance sheet, it is noticed that assessee company has made investment in shares and mutual fund of Rs. 189911762/- but assessee has not offered disallowance worked out u/s. 14A of Income Tax Act. As per Assessing Officer, assessee failed to furnish and to prove nexus from which it can be established that investment made in shares are very its own fund or from non interest bearing funds.
 4. On the other hand, in support of its contention, ld. AR. Stated that it has no borrowings at all and appellant had interest free funds totaling to Rs. 172377845/- consisting of share capital of Rs. 9464311 and reserve, surplus of Rs. 162913534/- as per Schedule 1 & 2.
 5. In support of its contention, assessee has filed at paper book page no. 6 & 7 and most of the investment are made through mutual fund and growth fund etc and same is part of paper book at page no. 8. As lower authorities have failed to bifurcate the carry forwarded fund and new investment made by the assessee. Therefore, in the interest of the justice, we set aside this matter to the file of the Assessing Officer to go through the audited balance sheet and details

of investment. Thereafter will make disallowance u/s. 14A read with Rule 8D as per law.

6. In the result, appeal filed by the Assessee is allowed for statistical purposes.
7. Now we come to Revenue' appeal in ITA No. 1920/Ahd/2014 wherein following grounds have been taken:
8. Facts of the case are that assessee is engaged in the business of educational research, preparation of papers for educational tests, development of teachers etc. Therefore in order to fulfill its obligation, assessee has made following expenses:

Sr.No	Name	Incentive Amount
1	Deepali Sinha	26,68,111
2	Rajendra Shah	820,507
3.	M.S.Krishnan	662,885
4	Mini Lal	281 ,492
5	Rennu Marwah	254,072
6	Madhuri Potwar	27,326
7	Sneha Wani	72,703
8	Anita Choudhary	31,600
9	Arul Selvam	16,725

9. Thereafter assessee had preferred first statutory appeal before the Id.CIT(A) who granted relief to the assessee.

10. We have gone through the relevant record and impugned order. Assessee is in the business since long and maintaining his accounts as per AS-2 and his books are duly audited in earlier year, similar expenses have been allowed by the Department and in support of its contention, assessee has filed voluminous paper book containing 363 pages wherein assessee has addressed all the grounds with regard to aforesaid disallowances made by the A.O. and subsequently relief given by the Id. CIT(A).

11. In this case, assessee has been consistently following the same practice of showing the revenue from its activities of preparing papers for educational tests and development of teachers and educational research etc. it is not possible to show work in progress in earlier year as well as subsequent year and in support of its contention, same of the contract signed with the persons to whom incentives payments were made. Assessee had also purchased confirmation letter, copies of agreement, passport PAN Card etc in order to strengthen its case.

12. In our considered opinion, Id. CIT(A) has passed reasoned order and same does not require any kind of interference at our end.

13. In the result, appeal filed by the Revenue is dismissed.

14. In the combined result, appeal filed by the Assessee is allowed for statistical purposes and appeal filed by the Revenue is dismissed.

Order pronounced in Open Court on	29 - 07- 2019
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Sd/-

(PRADIP KUMAR KEDIA)
ACCOUNTANT MEMBER **True Copy**
Ahmedabad: Dated 29 /07/2019

Sd/-

(MAHAVIR PRASAD)
JUDICIAL MEMBER

Rajesh

Copy of the Order forwarded to:-

1. The Appellant.
2. The Respondent.
3. The CIT (Appeals) –
4. The CIT concerned.
5. The DR., ITAT, Ahmedabad.
6. Guard File.

By ORDER

Deputy/Asstt.Registrar
ITAT,Ahmedabad