



ITA No.4035/Mum/2018  
Shreyas R. Mehta.  
Assessment Year :2015-16

**आयकर अपीलीय अधिकरण “जी” न्यायपीठ मुंबई में।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**“G” BENCH, MUMBAI**

**माननीय श्री सी. एन. प्रसाद, न्यायिक सदस्य एवं**  
**माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।**  
**BEFORE HON’BLE SHRI C.N. PRASAD, JM AND**  
**HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM**

आयकर अपील सं./ I.T.A. No.4035/Mum/2018  
(निर्धारण वर्ष / Assessment Year: 2015-16)

<b>Shreyas R. Mehta</b> C/o. Rasiklal Hiralal & Co. EC 4051-52, Bharat Diamond Bourse Bandra Kurla Complex Mumbai-400 051.	<b>बनाम/ Vs.</b>	<b>ACIT-10(3)(1)</b> Room No.212, 2nd Floor Aaykar Bhavan, M.K.Marg Mumbai-400 020.
स्थायी लेखासं./जी आइ आर सं./PAN/GIR No. <b>AACPM-8602-L</b>		
(पीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

<b>Assessee by</b>	:	Shri Ajay C. Gosalia-Ld. AR
<b>Revenue by</b>	:	Chaudhary Arun Kumar Singh - Ld.Sr.DR

सुनवाई की तारीख/ <b>Date of Hearing</b>	:	20/08/2019
घोषणा की तारीख / <b>Date of Pronouncement</b>	:	20/08/2019

**आदेश / ORDER**

**Manoj Kumar Aggarwal (Accountant Member)**

1. Aforesaid appeal by assessee for Assessment Year [in short referred to as ‘AY’] 2015-16 contest the order of Ld. Commissioner of Income-Tax (Appeals)-17, Mumbai, [in short referred to as ‘CIT(A)’], *Appeal No. CIT(A)-17/IT-330/10306/17-18* dated 27/03/2018 *qua* confirmation of certain disallowance u/s 14A. The Ld. Authorized



Representative for Assessee, at the outset, submitted that the issue stood covered in assessee's own case by the order of this Tribunal for AY 2010-11 ITA No.4495/Mum/2014 order dated 07/07/2016 and also for AY 2011-12, ITA No. 3308/Mum/2018 dated 21/05/2019. The copies of the orders have been placed on record.

2.1 Facts on record would reveal that the assessee being resident individual running a proprietorship concern in the name of Rasiklal Hiralal & Co., was assessed for impugned AY u/s 143(3) on 23/12/2017 wherein the assessee was saddled with disallowance u/s 14A read with Rule 8D for Rs.9.06 Lacs, being expense disallowance @0.5% u/r 8D(2)(iii) in view of the fact that the assessee had made investments in shares. The Ld. AO proceeded to make the said disallowance since the assessee had claimed certain expenditure such as salary, bank charges, clearing charges, rent, telephone expenses etc. The assessee had earned exempt dividend income of Rs.33.94 Lacs.

2.2 Before Ld. first appellate authority, the assessee, *inter-alia*, pleaded that demat charges, STT charges and other expenses were debited to the capital account and not charged to Profit & Loss account and no expenses were claimed towards earning of dividend income. However, the submissions could not find favor with learned first appellate authority, who confirmed the disallowance. Aggrieved, the assessee is in further appeal before us.

3. Upon careful consideration of cited decisions of Tribunal in assessee's own case for earlier years as well as upon perusal of assessee's financial statements as placed on record, it is found that the assessee's is maintaining separate accounts for business activities and



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share trading activities. The accounts have been duly audited u/s 44AB of the Income Tax Act, 1961. It is observed that no significant expenses have been debited by the assessee against share trading activities. The demat charges, STT & other charges have directly been debited to the Capital Account of the assessee. This being so, disallowance u/s 14A would not be justified since the assessee, in the first place, should have claimed the expenditure while computing the Profit / Loss for the year under consideration. Under similar circumstances, the additions in earlier years have been deleted by the co-ordinate bench of this Tribunal. Keeping in view the same, we delete the impugned disallowance and allow the appeal

4. The appeal stands allowed.

*Order pronounced in the open court on 20<sup>th</sup> August, 2019.*

**Sd/-**

**(C.N. Prasad)**

न्यायिक सदस्य / **Judicial Member**

**Sd/-**

**(Manoj Kumar Aggarwal)**

लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 20/08/2019

*Sr.PS, Jaisy Varghese*

**आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त(अपील) / The CIT(A)
4. आयकरआयुक्त/ CIT– concerned
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, मुंबई/ DR, ITAT, Mumbai
6. गार्डफाईल / Guard File

**आदेशानुसार/ BY ORDER,**

**उप/सहायक पंजीकार (Dy./Asstt.Registrar)**  
**आयकरअपीलीयअधिकरण, मुंबई / ITAT, Mumbai.**