

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

**BEFORE SHRI C.N. PRASAD, HON'BLE JUDICIAL MEMBER AND  
SHRI M. BALAGANESH, HON'BLE ACCOUNTANT MEMBER**

**ITA NO. 6248 & 6249/MUM/2017  
(A.Ys: 2013-14 & 2014-15)**

|  |    |   |
|--|----|---|
| <b>M/s. Mahindra Telecommunications Investment Pvt. Ltd.,</b><br>{Formerly Known as Mahindra Air Services Ltd.}<br>Sequently merged with Mahindra Holdings Limited<br>Mahindra Towers, Dr.G.M. Bhosale Marg<br>Worli, Mumbai – 400 018<br><br><b>PAN: AAACM3774E</b> | v. | <b>Income Tax Officer<br/>Range-2(2)(3)<br/>Aayakar Bhavan<br/>Church gate<br/>Mumbai</b> |
| <b>(Appellant)</b>   |    | <b>(Respondent)</b>   |

**Assessee by : Shri H.P. Mahajani**  
**Department by : Shri Chaitanya Anjaria**

**Date of Hearing : 26.07.2019**  
**Date of Pronouncement : 08.08.2019**

**ORDER**

**PER C.N. PRASAD (JM)**

1. These two appeals are filed by the assessee against different orders of the Ld. Commissioner of Income–tax (Appeals)–5, Mumbai [hereinafter in short "Ld.CIT(A)"] dated 10.07.2017 for the A.Ys. 2013-14 & 2014-15.
2. Assessee has raised the following common ground in both these appeals except for the figures: -

*"1. On the facts and circumstances of the case and in law, the learned CIT(A) erred in confirming the addition of ₹.47,86,212 to income as interest on capital contributed by the Appellant Company in the shares of the another company without appreciating that the said amount was embedded in option price receivable on the sale of the said shares and hence, not accrued and due for the year under consideration."*

3. At the time of hearing, Ld. Counsel for the assessee submits that the assessee had an investment in equity shares AT & T Global Network Services India P. Ltd, which has been purchased in pursuance of shareholder's agreement dated 07.03.2006. The shareholder's agreement among other terms also provided that AT & T Global Network Holdings LLC, shall have the first right to purchase the assessee's shareholding in AT & T Global Network Services India P. Ltd. either directly or through a third party by exercising its call option and paying to the assessee option price which is agreed to be the price payable for the total equity investment of the assessee plus 11% annual return, computed annually on the capitalization date over the life of the equity holding period and pro-rated for the period of holding between the immediately prior anniversary capitalization date and the date of divestiture. Ld. Counsel for the assessee submitted that the Assessing Officer and the Ld.CIT(A), following the ITAT order for AY 2008-09, held that, the assessee was entitled to an assured return @11% on its equity investment on accrual basis which was assessable on time proportion basis. It was the contention of the assessee that the said return could be assessed only as

a gain at the time of transfer of the said shares and not earlier. The addition was made under the head Business income.

4. Ld. Counsel for the assessee further submits that Hon'ble ITAT has upheld the addition made by the Assessing Officer. Copy of the order is placed on record at Page. No. 61 to 93 of the Paper Book. It is further submitted that the assessee has filed an appeal before Hon'ble High Court and the same has been admitted. Copy of the order is placed on record.

5. Ld. DR vehemently supported the orders of the authorities below.

6. We have heard the rival submissions, perused the orders of the authorities below. In view of the submissions of the Ld. Counsel for the assessee and respectfully following the order of the Tribunal in assessee's own case for the A.Y. 2008-09 in ITA.No. 2832/Mum/2012 dated 24.05.2016 the ground raised by the assessee is rejected.

7. In the result, appeals of the assessee are dismissed.

Order pronounced in the open court on the 08<sup>th</sup> August, 2019

Sd/-  
**(M. BALAGANESH)**  
**ACCOUNTANT MEMBER**

Mumbai / Dated 08/08/2019  
Giridhar, Sr.PS

Sd/-  
**(C.N. PRASAD)**  
**JUDICIAL MEMBER**

**Copy of the Order forwarded to:**

1. The Appellant
2. The Respondent.
3. The CIT(A), Mumbai.
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER

(Asstt. Registrar)  
**ITAT, Mum**