



B.E. Billimoria & Co. Ltd.
ITA No.3019Mum/2019
Assessment Year: 2015-16

आयकर अपीलीय अधिकरण "बी" न्यायपीठ मुंबई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
"B" BENCH, MUMBAI

माननीय श्री शक्तिजी दे, न्यायिक सदस्य एवं
माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।
BEFORE HON'BLE SHRI SAKTIJIT DEY, JM AND
HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM
(Hearing Through Video Conferencing Mode)

आयकर अपील सं./ I.T.A. No.3019/Mum/2019
(निर्धारण वर्ष / Assessment Year:2015-16)

DCIT-1(1)(1) Room No.533/579, 5 th Floor Aaykar Bhawan, M.K.Road Mumbai-400 020	बनाम/ Vs.	M/s. B.E. Billimoria & Co. Ltd. 2 nd Floor, Shiv Sagar Estate, A Block Dr.A.B.Road, Worli Mumbai - 400018
PAN/GIR No. AAACB-1542-P		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

Assessee by	:	Shri Satish Modi-Ld. AR
Revenue by	:	Shri Oommen Tharian-Ld. Sr. DR

सुनवाई की तारीख/ Date of Hearing	:	11/11/2020
घोषणा की तारीख / Date of Pronouncement	:	11/11/2020

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by revenue for Assessment Year [in short referred to as 'AY'] 2015-16 contest the order of Ld. Commissioner of Income-Tax (Appeals)-2, Mumbai [in short referred to as 'CIT(A)'], Appeal No. CIT(A)-2/IT/10173/2017-18 dated 04/02/2019 in allowing stamp duty charges & registration fees as deductible expenditure while computing



short terms capital gains. The revenue is also aggrieved by deletion of disallowance u/s 14A.

2. We have carefully heard the rival arguments and perused the orders of lower authorities. Our adjudication to the subject matter of appeal would be as given in succeeding paragraphs.

3. The material on record would show that the assessee being resident corporate assessee was assessed for the year under consideration u/s. 143(3) on 27/10/2017. During assessment proceedings, it transpired that the assessee sold an office premises vide agreement dated 31/03/2015 for a consideration of Rs.19 Crores and offered short-term capital gains of Rs.11.49 Crores. However since the stamp duty value of the premises was Rs.20.59 Crores, Ld. AO invoking the provisions of Sec.50C, added the differential amount of Rs.1.59 Crores to the income of the assessee.

The second disallowance made by Ld. AO was interest and indirect expenditure disallowance u/s 14A read with Rule 8D(2)(ii) & 8D(2)(iii) which aggregated to Rs.5.86 Lacs.

4. Before Ld. CIT(A), the assessee drew attention to the fact that it incurred aggregate expenditure of Rs.160.26 Lacs on account of stamp duty, registration charges and society transfer fees as per the contractual terms which was an allowable expenditure u/s 50(1)(i) of the Act. The said claim was restricted to Rs.159.23 Lacs i.e. to the extent of difference in Stamp Duty Value and actual sale consideration. Therefore, it was submitted that there was no justification for addition of Rs.159.23 Lacs. Concurring with the same, Ld. CIT(A) directed Ld. AO to delete this addition.



The interest disallowance u/s 14A was deleted since the assessee's interest free funds were found to be more than the investments and therefore no additions thereof were justified in term of the decision of Hon'ble Bombay High Court in **CIT V/s HDFC Bank Ltd 49 Taxmann.com 335**. The indirect expenditure disallowance of Rs.0.62 Lacs was deleted since the same had already been disallowed by the assessee while computing its income.

Aggrieved as aforesaid, the revenue is under further appeal before us.

5. Upon due consideration, we find no reason to interfere in the impugned order in any manner. The expenditure incurred by the assessee on transfer of property was an allowable expenditure while computing short-term capital gains and the same has rightly been allowed by Ld. CIT(A).

The interest disallowance u/s 14A would not survive since the fact the assessee had sufficient interest free funds to make the investment remain uncontroverted before us. The indirect expenditure was already been offered by the assessee in its computation of income and therefore, the same could not be disallowed again.

Hence, we find no reason to interfere in the impugned order on any of the issue.

6. The appeal stand dismissed.

Order pronounced on 11th November, 2020.

Sd/-

(Saktijit Dey)

न्यायिक सदस्य / **Judicial Member**

मुंबई Mumbai; दिनांक Dated : 11/11/2020

Sr.PS:-Jaisy Varghese

Sd/-

(Manoj Kumar Aggarwal)

लेखा सदस्य / **Accountant Member**



B.E. Billimoria & Co. Ltd.
ITA No.3019Mum/2019
Assessment Year: 2015-16

आदेश की प्रतिलिपि ँ ग्रेषित/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/सहायकपंजीकार (Dy./Asstt.Registrar)
आयकरअपीलीयअधिकरण, मुंबई / ITAT, Mumbai.**