

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'F', NEW DELHI**

Before Sh. Amit Shukla, Judicial Member

Dr. B. R. R. Kumar, Accountant Member

(Through Video Conferencing)

ITA No. 6894/Del/2017 : Asstt. Year : 2014-15

Planetcast Media Services Ltd. (formerly known as Essel Shyam Communication Ltd.), 1121, Hemkunt Chambers, 11 th Floor, 89, Nehru Place, New Delhi	Vs	ACIT, Central Circle-26, New Delhi
(APPELLANT)		(RESPONDENT)
PAN No. AAACE2299Q		

Assessee by : Sh. Ved Jain, Adv.

Revenue by : Sh. Ramesh Kumar, Sr. DR

Date of Hearing: 05.11.2020

Date of Pronouncement: 10.11.2020

ORDER

Per Dr. B. R. R. Kumar, Accountant Member:

The present appeal has been filed by the assessee against the order of the Id. CIT(A)-XXVI, New Delhi, dated 13.10.2017.

2. Following grounds have been raised by the assessee:

"1. On the facts and circumstances of the case, the order passed by the learned Commissioner of Income Tax (Appeals) is bad both in the eyes of law and on facts.

2. On the facts and circumstances of the case the Id. CIT (A) has erred both on facts and in law in confirming the addition of Rs.7,37,989/- on account of expenses incurred for earning exempt income u/s 14A of the Act.

3. That the addition has been confirmed rejecting the contention of the assessee that no such expenses in relation to earning exempt income has been incurred by the assessee.

4. That the disallowance has been confirmed rejecting the contention of the assessee that in the absence of any satisfaction with regard to the contention of the assessee being not correct having being recorded by the Assessing Officer the disallowance is not sustainable."

3. The assessee is in the business of providing telecommunication services like VSAT & Broadband services and made cumulative investment in 8.1% IRFC tax free bonds and other investments. The total investments made by the assessee at the beginning of the year was Rs.13.89 Cr. and at the end of the year was Rs.15.62 Cr. The AO has disallowed Rs.16.82 lacs on account of Section 14A after computing the average value of investment and taking into consideration the average value of the total assets. Out of the disallowance of Rs.16.82 lacs, the Id. CIT (A) has given relief of Rs.9.44 lacs holding that no disallowance is warranted on account of interest as the assessee has got sufficient own funds for the said investment.

4. Before us, during the arguments, the Id. AR brought to our notice that the assessee has earned Rs.24.66 lacs as exempt income from the cumulative investment in tax free bonds of IRFC of Rs.3.04 Cr. and relied upon the order of the Special Bench of ITAT in the case of Vireet Investments in ITA No. 502/Del/2012 wherein it was held that the disallowance under Rule 8D(iii) be computed taking into consideration the only the investments yielding exempt income. Hence, it was argued that

the 0.5% of the average investment on Rs.3.04 Cr. be computed as right disallowance.

5. The Id. DR argued that the contention of the assessee cannot be accepted and the entire investment should be considered for computing 0.5% of the average investments.

6. Having gone through the facts of the case, we also find that in the case of the assessee for the assessment year 2014-15 the disallowance has been restricted to the investments yielding exempt income placing reliance on judgment in the case of Vireet Investments (supra). In the absence of any material change to the facts of the case and in the preposition of the law, we hereby direct that the disallowance be computed @0.5% on the investment of Rs.3.04 Cr.

7. In the result, the appeal of the assessee is allowed.
Order Pronounced in the Open Court on 10/11/2020.

Sd/-

(Amit Shukla)
Judicial Member

Sd/-

(Dr. B. R. R. Kumar)
Accountant Member

Dated: 10/11/2020

Subodh/Binita
Copy forwarded to:
1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR