

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

**BEFORE SHRI RAJESH KUMAR, ACCOUNTANT MEMBER AND  
SHRI AMARJIT SINGH, JUDICIAL MEMBER**

**ITA No.6285/M/2018  
Assessment Year: 2012-13  
&  
ITA No.6286/M/2018  
Assessment Year: 2011-12**

Mrs. Shaila J. Parikh, Oricon House, 2 <sup>nd</sup> Floor, 12K, Dubhash Marg, Fort, Mumbai, Maharashtra- 400 023 <b>PAN: AGHPP7039B</b>	Vs.	Income Tax Officer, Ward 17(3)(3) Aayakar Bhavan, M.K. Road, Mumbai - 400020
(Appellant)		(Respondent)

**Present for:**

Assessee by : Shri Chetan Jain, A.R.  
Revenue by : Shri T.S. Khalsa, D.R.

Date of Hearing : 16.12.2020  
Date of Pronouncement : 13.01.2021

**ORDER**

**Per Rajesh Kumar, Accountant Member:**

The above titled appeals have been preferred by the assessee against the order dated 29.08.2018 of the Commissioner of Income Tax (Appeals) [hereinafter referred to as the CIT(A)] relevant to assessment year 2012-13 & 2011-12.

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2. The only issue raised by the assessee in the various grounds of appeal is against the confirmation of disallowance of Rs.8,56,829/- by Ld. CIT(A) as made by the AO under section 14A read with rule 8D.

3. The Ld. Counsel at the outset submitted that the issue is squarely covered by the decision of the co-ordinate bench of the Tribunal in assessee's own case in ITA No.3185/M/2013 vide order dated 16.10.2016 wherein the co-ordinate bench of the Tribunal has deleted the disallowance under section 14A read with rule 8D by holding that assessee has not claimed any expenditure and therefore no disallowance can be made. The Ld. Counsel stated that the said decision of the co-ordinate bench of the Tribunal was reproduced by the Ld. CIT(A) at para 4.2. of the appellate order. The Ld. Counsel submitted that since in the current year also no claim of expenses have been made while computing the income of the assessee. Therefore following the said decision of the Tribunal the disallowance of Rs.8,56,829/- may kindly be deleted.

4. The Ld. D.R., on the other hand, argued before the Bench that it is not clear whether assessee has not claimed any expenses while computing the income, therefore this needs to be verified at the level of AO and may kindly be restored to the file of the AO.

5. After hearing both the parties and perusing the material on record, we observe that the identical issue has been decided by the co-ordinate bench of the Tribunal in ITA No.3185/M/2013 A.Y. 2009-10 in assessee's own case wherein it has been held that no disallowance can be made where the assessee has not claimed any expenses. Following the said decision of the co-ordinate bench of the Tribunal, we are inclined to hold in the current year that disallowance of Rs.8,56,829/- can not be made as assessee has not claimed any expenses in the computation of

total income. Accordingly the AO is directed to delete the disallowance of Rs.8,56,829/-. Appeal of the assessee is allowed.

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6. The issue raised in this appeal is identical to one as decided by us in ITA No.6286/M/2018 A.Y. 2011-12 which is qua the expenses disallowed by the AO under section 14A read with rule 8D. Our finding in ITA No.6286/M/2018 A.Y. 2011-12 would mutatis mutandis apply to this appeal also. Accordingly, this appeal of the assessee is also allowed.

7. In the result, both the appeals of the assessee are allowed.

**Order pronounced in the open court on 13.01.2021.**

**Sd/-  
(Amarjit Singh)  
JUDICIAL MEMBER**

**Sd/-  
(Rajesh Kumar)  
ACCOUNTANT MEMBER**

Mumbai, Dated: 13.01.2021.

\* Kishore, Sr. P.S.

Copy to: The Appellant  
The Respondent  
The CIT, Concerned, Mumbai  
The CIT (A) Concerned, Mumbai  
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.