

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

**Before Ms. Suchitra Kamble, Judicial Member**

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

**(Through Video Conferencing)**

**ITA No. 5516/Del/2016 : Asstt. Year : 2010-11**

Tirupati Services Pvt. Ltd., C/o Kailash Motors Building, 84/105, G.T. Road, Kanpur-208003	Vs	ACIT, Circle-16(1), New Delhi
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>
<b>PAN No. AAAC4868N</b>		

**Assessee by : None**

**Revenue by : Sh. Prakash Dubey, Sr. DR**

**Date of Hearing: 17.02.2021**

**Date of Pronouncement: 06.04.2021**

**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)-33, New Delhi dated 06.07.2015.

2. Following grounds have been raised by the assessee:

*"1. Because the learned CIT (Appeals) erred in law and on facts in not considering the submission of the appellant with respect to sufficiency of own funds in investment in shares in the past as well as during the year out of own net funds ignoring the citation of judgments in the following cases:-*

- i. CIT Vs. Reliance Utility Power Limited reported in 313 ITR 340 (Bom.)*
- ii. CIT Vs. Hero Cycles Limited reported in 323 ITR 518 (P & H).*

2. *Because the learned CIT (Appeals) erred in law and on facts in not considering the judgments of jurisdictional High Court in the cases of CIT-VI Vs. Taikisha Engineering India Limited reported in 370 ITR 338 (Delhi)/2015 & in the case of Joint Investment Pvt. Limited Vs. CIT in reported in 372 ITR 694 (2015) (Delhi) that the disallowances cannot exceed the exempt income earned by the appellant giving the plea that judicial pronouncement relate to clause (i) of sub-note-2 of Rule 8D.*

3. *Because the leaned CIT(Appeals) erred in law and on facts in not considering the Foreign Travel Expenses being for business purposes and in confirming the sum of Rs.4,61,793/- without assigning reasons.*

4. *Because the disallowances confirmed by the learned CIT (Appeals) is unjustified, contrary to the facts, law and against the principals of natural justice."*

**Disallowance u/s 14A:**

3. Straight to the facts of the case:

The average investments : Rs.41,29,050/-.

Dividend received : Nil

The assessee's own fund : Rs.5,72,72,655/-

4. From the above, it can be held that the assessee has sufficient own interest free funds available to make investments has not incurred any interest cost on the investment and also has not earned any dividend. In the absence of any earning of exempt income no disallowance is called for.

**Disallowance on account of Foreign Travel:**

5. From the records, it is gathered that Sri Vineet Chandra & Smt. Nidhi Chandra, Directors of the Company undertook Journey to Paris via London w.e.f. 13.11.2009 to 20.11.2009. The invitation was received from Jonathan Whartman, Executive Vice President of MDT Armor, a US Corporation operating in Auburn, Alabama. MDT Armor organized a booth at the Milipol Defence Show in Paris on November, 17 to 20. Invitation was received for visiting the aforesaid booth at Paris. The photocopy of Invitation letter was furnished at the time of assessment proceedings. The invitation was put up before the Board of Directors for considering the necessity of visiting the booth at Paris. The assessee visited the place in the wider interest of business and to explore the possibilities of supplies of various kinds of vehicles and to interact with other businessmen. A copy of Resolution passed in the meeting of Board of Directors was also furnished before the learned AO. The A.O. observed that since there is no connection between the Paris Defense Equipments and vehicle show and held that the bookings done for three people was a pleasure trip in the garb of business trip and so, the said expenses being personal in nature are disallowed.

6. The fact that foreign tour to Paris was for the purpose of business was submitted before the learned AO. As per books of account the total amount of expenses on travelling head is Rs.13,22,932/-. Out of this, expenses incurred on foreign travelling by the directors is to the tune of Rs.7,97,915/-. Rest of the travelling expenses is Rs.5,25,017/- by directors and employees. It would be seen that the total amount on foreign

travelling is disallowed at Rs.6,85,313/- which is inclusive of the following:

a)	<i>Travelling expenses of foreign tour as per photocopy of bills attached with the assessment order</i>	<i>Rs.4,61,793.00</i>
b)	<i>Invoice No.36 dated 23.01.2010 of Avikrit Travells. The amount is twice added, once it is basis of this Invoice and again it is disallowed against Voucher No.1193. Photocopies of Invoice and voucher are with the assessment</i>	<i>Rs. 23,520.00</i>
c)	<i>Hotel Booking for Paris &amp; Netherland on estimate basis</i>	<i>Rs.2,00,000.00</i>
	<b>TOTAL</b>	<b>Rs. 6,85,313.00</b>

7. The Ld. A.O. disallowed a sum of Rs. 2 lacs for hotel booking in Paris and Netherland on estimate basis whereas invoice No. 30 of Avikrit Travel is consisted of amount of Hotel Booking in Paris. Furthermore, in fact the aforesaid two directors neither stayed in Netherland nor the tour was aimed for the visit of Netherland. Besides, no expenses are incurred and accordingly no expenses are debited in the books of account for Netherland. Only VISA was obtained for Netherland in order to be an easier course in obtaining VISA for visiting Paris. As such, disallowance of Rs.2,00,000/- on estimate basis is without any base. Secondly the above two directors undertook journey to abroad and none else was there. So the observation of the Ld. A.O. for three persons is incorrect and without any basis. Since, the expenditure is incurred for the Directors of the company in relation to the business affairs, no disallowance is called for in this case.

8. As a result, the appeal of the assessee allowed.  
Order Pronounced in the Open Court on 06/04/2021.

Sd/-

**(Suchitra Kamble)**  
**Judicial Member**

**Dated: 06/04/2021**

\*Subodh\*

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

Sd/-

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

**ASSISTANT REGISTRAR**