

**IN THE INCOME TAX APPELLATE TRIBUNAL  
KOLKATA 'B' BENCH, KOLKATA**

**(Before Sri J. Sudhakar Reddy, Hon'ble Accountant Member & Sri Aby T. Varkey, Hon'ble Judicial Member)**

**ITA No. 40/Kol/2019**  
Assessment Year: 2013-14

**Barooahs & Associates Private Limited.....Appellant**  
**113 Park Street**  
**9<sup>th</sup> Floor**  
**Kolkata - 700 016**  
**[PAN : AABCB 1007 C]**

**Vs.**

**Deputy Commissioner of Income Tax, Circle -4 (1), Kolkata.....Respondent**

**Appearances by:**

*Shri Partha Mukherjee, A/R, appeared on behalf of the assessee.*

*Shri Maish Kanojia, CIT, D/R, appearing on behalf of the Revenue.*

Date of concluding the hearing : April 19<sup>th</sup>, 2021

Date of pronouncing the order : April 22<sup>nd</sup>, 2021

**ORDER**

**Per J. Sudhakar Reddy, AM :-**

This appeal filed by the assessee is directed against the order of the Learned Commissioner of Income Tax (Appeals)- 2, Kolkata (hereinafter the "ld. CIT(A)"), passed u/s. 250 of the Income Tax Act, 1961 (the 'Act'), dt. 29/11/2018, for the Assessment Year 2013-14.

2. After hearing rival contentions we find that the Assessing Officer has disallowed expenditure u/s 14A of the Act by recording as follows:-

*"It was evident from the relevant balance sheets of the assessee that the assets shown therein included a significant amount of investments. Besides, the assessee claimed to have earned an amount of dividend of Rs.2,46,352/- in the previous year under consideration. Logically, related expenses ought to have been added back by the assessee in its computation of total income in accordance with the provisions of section 14A of the Act. But no such addition was made by the assessee of its own accord." [emphasis ours]*

3. While doing so, he has not excluded this dividend income from the total income by applying Section 10(34) of the Act. This mistake is apparent on record. Both the Assessing Officer as well as the ld. CIT(A) are in error in not rectifying this mistake. Hence, we direct the Assessing Officer to exclude the dividend income of Rs.2,46,352/- from the total income as the same cannot be brought to tax in view of Section 10(34) of the Act.

4. In the result, appeal of the assessee is allowed.

**Kolkata, the 22<sup>nd</sup> day of April, 2021.**

**Sd/-**  
**[Aby T. Varkey]**  
Judicial Member

**Sd/-**  
**[J. Sudhakar Reddy]**  
Accountant Member

Dated: 22.04.2021  
{SC SPS}



*Copy of the order forwarded to:*

**1. Barooahs & Associates Private Limited**  
**113 Park Street**  
**9<sup>th</sup> Floor**  
**Kolkata - 700 016**

**2. Deputy Commissioner of Income Tax, Circle -4 (1), Kolkata**

3. CIT(A)-

4. CIT- ,

5. CIT(DR), Kolkata Benches, Kolkata.

True copy  
By order

Assistant Registrar  
ITAT, Kolkata Benches