

आयकर अपीलीय अधिकरण “एफ” न्यायपीठ मुंबई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
“F” BENCH, MUMBAI

माननीय श्री महावीर सिंह, उपाध्यक्ष एवं
माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।
BEFORE HON’BLE SHRI MAHAVIR SINGH, VP AND
HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM
(Hearing Through Video Conferencing Mode)

आयकरअपील सं./ I.T.A. No.7302/Mum/2019
(निर्धारण वर्ष / Assessment Year: 2016-17)

ACIT-9(3)(2) Room No.418, 4 th Floor Aaykar Bhavan, M.K. Road Mumbai-400 020	बनाम/ Vs.	M/s Future Brands Limited GF, Knowledge House Off. Jogeshwari Vikhroli Link Road Shyam Nagar, Jogeshwari (E) Mumbai – 400 060
स्थायीलेखासं ./जीआइआरसं ./PAN/GIR No. AABCF-0462-H		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

Assessee by	:	Ms. Dinkle Hariya – Ld. AR
Revenue by	:	Ms. Usha Gaikwad – Ld. Sr. DR

सुनवाई की तारीख/ Date of Hearing	:	12/05/2021
घोषणा की तारीख / Date of Pronouncement	:	12/05/2021

आदेश / O R D E R

Manoj Kumar Aggarwal (Accountant Member)

1. The registry has noted delay of 5 days in the appeal, the condonation of which has been sought by the department on the strength of condonation petition dated 28/11/2019. After going through the same and considering the period of delay, we condone the delay and admit the appeal.

2. In this appeal for Assessment Year (AY) 2016-17, the revenue is aggrieved by deletion of disallowance u/s 14A for Rs.348.94 Lacs by Ld. Commissioner of Income Tax (Appeals)-16, Mumbai {CIT(A)} vide impugned order dated 28/08/2019.
3. The Ld. AR submitted that the assessee did not earn any exempt income during the year and therefore, the disallowance was rightly deleted by Ld. CIT(A). The attention was drawn to the fact that similar disallowance made by Ld.AO in AY 2012-13 was deleted by learned first appellate authority for the same very reason. The said order has been confirmed by the Tribunal vide ITA No.5561/Mum/2016 order dated 29/01/2018, a copy of which has been placed on record. The Ld. DR submitted that disallowance was to be computed despite the fact that no income was earned by the assessee during the year. After perusal of material on record, our adjudication to the subject matter of appeal would be as given in succeeding paragraphs
4. The material facts are that the assessee being resident corporate assessee was assessed u/s 143(3) on 12/12/2016. Despite assessee's submissions that no exempt income was earned during the year, the Ld. AO computed disallowance u/s 14A r.w.r. 8D(2) for Rs.348.94 Lacs. The Ld. CIT(A) deleted the same by relying upon appellate order for AY 2014-15. Aggrieved, the revenue is in further appeal before us.
5. It is undisputed fact that the assessee has not earned any exempt income during the year. We find that similar disallowance made in AY 2012-13 in assessee's own case was deleted by learned first appellate authority on same factual matrix. The said adjudication has been confirmed by Tribunal vide ITA No.5561/Mum/2016 order dated

29/01/2018 by dismissal of revenue's appeal. Reliance has been placed on the decision of Hon'ble Delhi High Court in **Cheminvest Ltd. V/s CIT (378 ITR 33)**. Facts being pari-materia the same, taking the same view, we dismiss the appeal.

6. The appeal stands dismissed.

Order pronounced on 12th May, 2021.

Sd/-

(Mahavir Singh)

उपाध्यक्ष / Vice President

Sd/-

(Manoj Kumar Aggarwal)

लेखा सदस्य / Accountant Member

मुंबई Mumbai; दिनांक Dated : 12/05/2021
Sr.PS, Jaisy Varghese

आदेशकीप्रतिलिपिअग्रेषित/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/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकरअपीलीयअधिकरण, मुंबई / ITAT, Mumbai.