

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: 'B' NEW DELHI**

**BEFORE SHRI O.P. KANT, ACCOUNTANT MEMBER
&
SHRI K.NARASIMHA CHARY, JUDICIAL MEMBER**

**ITA No.- 170 /Del/ 2018
(Assessment Year: 2014-15)**

Addl CIT,
special range-2
New Delhi.

Vs. C L Educate Ltd
R-90, greater Kailash-1,
New Delhi.

Appellant

**PAN No. AAACC3885C
Respondent**

Revenue by	Sh. Mahesh Thakur, Sr. DR
Assessee by	Sh. Rakesh K Sehgal, CA

Date of hearing:	8/4/2021
Pronouncement on	15/6/2021

ORDER

PER K. NARASIMHA CHARY, JM.

Challenging the order dated 7/9/2017 in appeal No. 10478/16-17 of CIT (A)-2 passed by the learned Commissioner of Income Tax (Appeals)-2, New Delhi ("Ld. CIT(A)"), in the case of M/s CL educate Ltd ("the assessee"), for the assessment year 2014-15, Revenue preferred this appeal on the following grounds:-

1. whether on facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in deleting the addition made under section 14 A of the I T act, New Delhi tune of Rs. 1, 27, 35, 364/-.

2. Whether on the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in deleting the disallowance of unearned interest on advances written off to the tune of Rs. 1, 54, 88, 025/-without any definite finding on the issue.
3. The appellant craves leave to for reserving the right to amend, modify, alter, added or forego any ground (is) of appeal at any time before or during a hearing of this appeal.

2. Insofar as ground No. 1 is concerned it could be seen from the record that the assessee submitted before the learned Assessing Officer that the assessee had not been earning any income from the subsidiary company, out of investment. Learned Assessing Officer, however, recorded that the amount of proportionate interest as bearing to the amount of investment in the subsidiary company has to be disallowed and while working out the same under rule 8D of the Income Tax Rules 1962 ("the Rules") he made an addition of Rs. 1, 27, 35, 364/-under section 14A of the Income Tax Act, 1961 (for short "the Act") read with Rule 8D of the Rules.

3. To these facts, Ld. CIT(A) applied the law laid down by the Hon'ble jurisdictional High Court in the cases of CIT vs. Holcim India Private Limited (2015) 57 taxmann.com 28 (Delhi) and Cheminvest Ltd vs. CIT (2015) 61 taxman.com 118 (Delhi) wherein it has been held that no disallowance under section 14 A of the Act can be made in a year in which no exempt income was earned or received by the assessee.

4. There is no dispute as to the fact that in this particular assessment year the assessee did not earn or receive any dividend income. Ld. CIT(A) has rightly applied the law laid down by the Hon'ble jurisdictional High

Court to the facts of the case and deleted the addition made under section 14A of the Act read with Rule 8D of the Rules. We, therefore, do not find any ground to interfere with such findings and consequently confirm the same. Ground No. 1 of the Revenue's appeal is accordingly dismissed.

5. Now coming to the 2nd ground, according to the learned Assessing Officer, during the year, the loan balance of Rs. 1, 54, 88, 0 25/- due from Carrier Launcher Education Foundation (CLEF) was written off and according to the assessee CLEF was in the business of providing MBA education and had suffered huge financial loss and, therefore, discontinued its business; that in the view of the management, the outstanding interest receivable was doubtful of recovery and therefore, it was decided to write off the interest of Rs. 1.54 crores receivable from CLEF. It was further pleaded that the written off was in the nature of loan given by the assessee and a different from a trade receivable.

6. Learned Assessing Officer however, held that such a loan and advances as given to CLEF sought to be written off was of capital in nature and therefore the same was not allowable. In the appeal, Ld. CIT(A), as a matter of fact found from the Ledger account of interest income of the earlier years that the assessee had declared the amount written off during this assessment year, as interest income in the earlier years and paid in taxes thereon. Since the assessee had declared the amount in question as income in the earlier assessment years and paid in taxes thereon, Ld. CIT(A) held that the conditions required under section 36(1)(vii) read with section 36 (2) of the Act.

7. It is not the case of the Revenue that in the earlier assessment years the assessee did not declare the impugned amount as income. It goes unchallenged that the assessee declared this amount as income in earlier assessment years and also paid the taxes. In view of the decision of the Hon'ble Supreme Court in the case of TRS Ltd vs. CIT 323 ITR 327, it is not necessary for the assessee to establish that the debt, in fact, has become irrecoverable; and that, it is enough if the debt is written off as irrecoverable in the accounts of the assessee. There is no doubt that the conditions under section 36(1)(vii) read with section 36 (2) of the Act are satisfied. The deletion of this addition by the Ld. CIT(A), therefore, does not suffer any illegality or irregularity. We, therefore, confirmed the same and dismiss the other ground of the appeal of the Revenue.

8. In the result, appeal of the Revenue is dismissed.

Order pronounced in the open court on this the 15th day of June, 2021.

Sd/-
(O.P.KANT)
ACCOUNTANT MEMBER
Dated: 15/6/2021

Sd/-
(K. NARASIMHA CHARY)
JUDICIAL MEMBER