

**IN THE INCOME TAX APPELLATE TRIBUNAL “C” BENCH, MUMBAI**

**BEFORE HON’BLE JUSTICE P.P.BHATT, PRESIDENT  
AND SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER**

ITA No.5653/Mum/2019  
(Assessment Year: 2013-14)

DCIT,Central Circle-6(4) Room No.1925, Air India Building 19 <sup>th</sup> Floor, Nariman Point Mumbai-400 021	Vs.	Indiabulls Integrated Services Limited [formerly known as Indiabulls Wholesale Services Limited] M-62 & 63, 1 <sup>st</sup> Floor, Connaught Place, New Delhi-110 001
PAN/GIR No. AABCI7129N		
<b>(Revenue)</b>	:	<b>(Assessee)</b>

&

ITA No.5286/Mum/2019  
(Assessment Year: 2013-14)

Indiabulls Integrated Services Limited [formerly known as Indiabulls Wholesale Services Limited] M-62 & 63, 1 <sup>st</sup> Floor, Connaught Place, New Delhi-110 001	Vs.	DCIT, Circle-3(2)(1) Room No.608, 6 <sup>th</sup> Floor Aaykar Bhawan, M.K.Road Mumbai-400 020
PAN/GIR No. AABCI7129N		
<b>(Assessee)</b>	:	<b>(Revenue)</b>

<b>Assessee by</b>	:	Shri Chetan Karia-AR
<b>Revenue by</b>	:	Ms. Shreekala Pardeshi-DR

<b>Date of Hearing</b>	:	05.07.2021
<b>Date of Pronouncement</b>	:	13 .07.2021

**ORDER**

Per Shamim Yahya, A. M.:

These cross appeals by the Revenue and the Assessee are directed against the order of the learned Commissioner of Income Tax (Appeals)-9, Mumbai (‘Id.CIT(A) for short) dated 13.06.2019 and pertain to the assessment year (A.Y.) 2013-14.

2. The grounds of appeal raised by the revenue read as under:

- i. "Whether on the facts and in the circumstances of the case and in law, the CIT(A) has erred in restricting the addition u/s.14A to the extent of exempt income earned?"

The appellant craves leave to amend or alter any ground or add a new ground which may be necessary.

3. Brief facts of the case are that assessee company filed return of income on 23.09.2013 declaring total loss of Rs.5,05,32,941/-. Thereafter, the case was selected for scrutiny and Assessment order u/s. 143(3) was passed on 29.01.2016 by determining total loss at Rs.3,25,15,060/-. The AO disallowed an amount of Rs.1,80,17,881/- u/s 14A r.w.Rule 8D of the Income Tax Rules.

4. Upon the assessee's appeal, the Id. CIT(A) restricted the disallowance to exempt income earned as under:-

4.5.1 The issue of restriction of the disallowance under section 14A to the exempt income has been conclusively decided the Hon'ble Supreme Court in its recent judgement in the case of **Maxopp Investment Ltd. v. CIT ( 91 Taxmann.com 154)**. The Hon'ble Supreme Court in para 40 of the judgement has observed as under:

*"We note from the facts in the State Bank of Patiala cases that the AO, while passing the assessment order, had already restricted the disallowance to the amount which was claimed as exempt income by applying the formula contained in Rule 8D of the Rules and holding that section 14A of the Act would be applicable.*

*In spite of this exercise of apportionment of expenditure carried out by the AO, CIT(A) disallowed the entire deduction of expenditure. That view of the CIT(A) was clearly untenable and rightly set aside by the ITAT."*

4.5.2 In view of the judicial precedents listed above, I understand that the disallowance computed under Rule 8D needs to be restricted to total amount of exempt income earned by the appellant during the year. The disallowance u/s 14A of the Act is restricted to the exempt income of Rs.10,05,236/- following the judicial view which has been evolved as reflected in various decisions referred in earlier

paragraphs. Therefore the AO is directed to restrict the disallowance under section 14A r.w. Rule 8D to Rs.10,05,236/- and the balance disallowance of Rs.1,70,12,645/- is to be deleted

5. Against the above order, the assessee and the Revenue is appeal before us.
6. We have heard both the parties and perused the record. We find that Ld.CIT(A) has passed a correct order following Hon'ble Supreme Court decision in Maxopp Investment Ltd.(supra). Hence, we uphold the order of Ld.CIT(A). Ld. DR fairly agreed to the above.
7. Hence, revenue' appeal is dismissed.
8. The grounds of appeal raised by the assessee read as under:-
  1. The Hon'ble CIT(A) erred on facts and circumstances of the case in confirming the disallowance u/s 14A read with Rule 8D made by the AO to the extent of Rs.10,05,236/-.
  2. The appellant craves for liberty to add, amend, alter or forego any of the above grounds of appeal as the circumstances may warrant.
9. Since, we have already uphold Ld.CIT(A)'s order in revenue's appeal above; the appeal by the assessee is liable to be dismissed. Ld. Counsel of the assessee fairly agreed to the above. Hence, assessee's appeal is dismissed.
10. In the result, both appeals are dismissed.

*Order pronounced in the open court on 13 .07.2021*

Sd/-  
(JUSTICE P.P.BHATT)  
PRESIDENT

Sd/-  
(SHAMIM YAHYA)  
ACCOUNTANT MEMBER

Mumbai; Dated : 13.07.2021  
Thirumalesh, Sr. PS

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT - concerned
5. DR, ITAT, Mumbai
6. Guard File

BY ORDER,

(Dy./Asstt. Registrar)  
ITAT, Mumbai