

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

माननीय श्री विकास अवस्थी, न्यायिक सदस्य एवं
माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।
BEFORE HON’BLE SHRI VIKAS AWASTHY, JM AND
HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM
 (Hearing through Video Conferencing Mode)

आयकरअपील सं./ I.T.A. No.7965/Mum/2019
 (निर्धारण वर्ष / Assessment Year: 2013-14)

Shri Kharati Ram Puri 50, Sunita, G. D. Somani Marg, Cuffe Parade, Mumbai-400 005	बनाम/ Vs.	ACIT- Circle 3(1)(1) 3 rd floor, Mittal Court, Nariman Point, Mumbai-400 021
स्थायीलेखासं ./जीआइआरसं ./PAN/GIR No. AAEPP-8874-D		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

Assessee by	:	Shri Raghunath Sarangapani– Ld. AR
Revenue by	:	Shri Ashish Heliwal– Ld. Sr. DR

सुनवाई की तारीख/ Date of Hearing	:	23/08/2021
घोषणा की तारीख / Date of Pronouncement	:	25/08/2021

आदेश / O R D E R

Manoj Kumar Aggarwal (Accountant Member)

1. The sole grievance of the assessee in the captioned appeal for Assessment Year (AY) 2013-14 is disallowance u/s 14A as made by Ld. AO in assessment order dated 24/02/2016 which has been confirmed by learned Commissioner of Income-Tax (Appeals)-8, Mumbai [CIT(A)], vide order dated 20/08/2019.
2. A delay of 60 days has been noted in the appeal, the condonation of which has been sought by the assessee vide petition dated

17/01/2020 which is supported by the affidavit of the assessee. The delay has been attributed to the adverse medical conditions being faced by the assessee. After going through the contents of the petition and after considering the affidavit of the assessee, the bench formed an opinion that the delay was to be condoned and the appeal was to be admitted. We order so.

3. Having heard rival submissions, our adjudication to the subject matter of appeal would be as given in succeeding paragraphs.

4. The assessee being resident individual stated to be engaged in trading activities earned exempt dividend income of Rs.474.03 Lacs which led Ld. AO to trigger the provisions of Sec.14A. The assessee suo-moto disallowed amount of Rs.0.15 Lacs in the computation of income. Though the assessee justified the same, Ld. AO computed indirect disallowance of Rs.6.08 Lac as per Rule 8D(2)(iii) and added the differential of Rs.5.92 Lacs to the income of the assessee. The stand of Ld. AO, upon confirmation by Ld. CIT(A), is in further challenge before us.

5. Upon perusal of assessee's financials as placed on record, it could be seen that the assessee has debited aggregate indirect expenditure of Rs.1.17 Lacs in the shape of Audit fees, bank charges, business hospitality and legal fees etc. The depreciation is statutory allowance against which no disallowance is warranted. As against expense claim of Rs.1.17 Lacs, the assessee has suffered disallowance of Rs.6.08 Lacs which could not be held to be justified from any angle. The assessee has already suo-moto disallowed proportionate expenditure in the ratio of exempt income vis-à-vis total income which is evident from its computation. Therefore, the impugned difference of Rs.5.92 Lacs is not

sustainable on the facts of the case. By deleting the same, we allow ground nos. 2 & 3. The other grounds are not urged before us and therefore, the same stand dismissed.

6. The appeal stand partly allowed.

Order pronounced on 25th August, 2021.

Sd/-
(Vikas Awasthy)
न्यायिक सदस्य / **Judicial Member**

Sd/-
(Manoj Kumar Aggarwal)
लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 25.08.2021
Sr.PS, Dhananjay

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.