

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.825/Mum/2020
(निर्धारण वर्ष / Assessment Year: 2014-15)

&

आयकरअपील सं./ I.T.A. No. 824/Mum/2020
(निर्धारण वर्ष / Assessment Year: 2015-16)

Kotak Mahindra Asset Management Co. Ltd. 27 BKC, Bandra Kurla Complex, Bandra East, Mumbai-400 051	बनाम/ Vs.	DCIT Range-14(2)(1), Aaykar Bhavan, Mumbai-400 020
स्थायीलेखासं . /जीआइआरसं . /PAN/GIR No. AAACK-5576-C		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

Assessee by	:	Shri Farookh Irani, Ld. Sr. Counsel
Revenue by	:	Shri Ashish Heliwal– Ld. Sr. DR

सुनवाई की तारीख/ Date of Hearing	:	24/08/2021
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 captioned appeals for Assessment Years (AY) 2014-15 & 2015-16 is disallowance u/s 14A. The assessment for AY 2014-15 has been framed on 30/11/2016 whereas the assessment for AY 2015-16 has been framed on 29/12/2018. The appellate orders have been passed on 25/11/2019.

2. The Ld. Sr. Counsel, at the outset, drawing attention to ground no.11, sought exclusion of those investments which have yielded exempt income during the year. For this, reliance has been placed on Tribunal's order in assessee's own case for AYs 2001-12 to 2013-14. The copies of the orders have been placed on record. The Ld. Sr. DR, on the other hand, submitted that the fact that the dominant object of the investments has lost relevance in the light of decision of Hon'ble Supreme Court in **Maxopp Investment Ltd. (402 ITR 640)**. Having heard rival submissions, our adjudication to the subject matter of appeal would be as given in succeeding paragraphs.

3. The material facts in AY 2014-15 are that the assessee earned exempt income of Rs.212.65 Lacs but did not offer any suo-moto disallowance. The Ld. AO, applying Rule 8D(2)(iii), computed indirect expense disallowance of Rs.13.40 Lacs which was confirmed by learned first appellate authority. The quantum of disallowance in AY 2015-16 was Rs.13.45 Lacs. Aggrieved, the assessee is in further appeal before us.

4. We find that this issue has been adjudicated by coordinate bench of Tribunal in assessee's own case for various years. The bench, in para-9 of its order for AY 2011-12, ITA No.3424/Mum/2016 dated 19/09/2019, has directed Ld. AO to consider only those investments which has yielded exempt income during the year while computing the disallowance. Similar are the facts in both the years before us. Therefore, we issue similar directions to Ld. AO. Accordingly, Ld. AO is directed to consider only those investments which have yielded exempt income during the year while computing the disallowance. The quantum of disallowance for both the years may be recomputed by Ld. AO. The decision of Hon'ble Supreme Court in **Maxopp Investment Ltd. (supra)**

as referred to by Ld. Sr. DR for the submissions that theory of dominant object has lost relevance, has not been disputed by Ld. Sr. Counsel rather what Ld. Sr. Counsel has pleaded before us is the exclusion of non-exempt income yielding investment while computing the disallowance u/s 14A as held by Tribunal in earlier years. Therefore, the plea raised by Ld. Sr. DR is not of much relevance here. This ground stand allowed in both the years. No other grounds have been urged before us and accordingly, all the other grounds stands dismissed.

5. Both the appeals 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.