

आयकर अपीलीय अधिकरण “ए” न्यायपीठ मुंबई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
“A” 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. 734/Mum/2020
(निर्धारण वर्ष / Assessment Year: 2012-13)

Asian Hospitals & Healthcare Pvt. Ltd. 302, Doctor House, 14, Peddar Road Mumbai-400 026	बनाम / Vs.	ITO Ward – 5(1)(1) R. No. 570, 5 th floor, Aaykar Bhavan M. K. Road, Mumbai-20
स्थायीलेखासं ./जीआइआरसं ./PAN/GIR No. AAFCA-5335-E		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

Assessee by	:	Shri Nishith Khatri – Ld. AR
Revenue by	:	Shri Brajendra Kumar – Ld. DR

सुनवाई की तारीख/ Date of Hearing	:	28/09/2021
घोषणा की तारीख / Date of Pronouncement	:	28/09/2021

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

- The only grievance of the assessee in captioned appeal for Assessment Year (AY) 2012-13 is disallowance 14A for Rs.1.45 Lacs. Having heard rival submissions and after careful consideration of material on record, our adjudication to the subject matter of appeal would be as given in succeeding paragraphs.
- The material facts are that the assessee being resident corporate assessee was assessed u/s 143(3) on 24/03/2015 wherein it transpired

that the assessee earned exempt dividend income of Rs.4,080/- but it not offer any disallowance u/s 14A. The same was on the reasoning that no expenditure was incurred for the purpose of earning exempt income. However, applying Rule 8D(2)(iii), Ld. AO computed indirect expenses disallowance of Rs.1.45 Lacs.

3. During appellate proceedings, the assessee submitted that disallowance u/s 14A could not exceed the exempt income earned by the assessee. However, rejecting the same, Ld. CIT(A) confirmed the addition. Aggrieved, the assessee is in further appeal before us.

4. We are of the considered opinion that as per settled position of law, the disallowance u/s 14A could not exceed the exempt income earned by the assessee. Therefore, we direct Ld. AO to restrict the disallowance to Rs.4,080/-. The balance disallowance stand deleted.

5. The appeal stand partly allowed.

Order pronounced in open court on 28th September, 2021.

Sd/-

(Vikas Awasthy)

न्यायिक सदस्य / **Judicial Member**

Sd/-

(Manoj Kumar Aggarwal)

लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 28/09/2021
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.