

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "B": NEW DELHI**

**BEFORE SHRI G.S. PANNU, HON'BLE PRESIDENT
AND
SHRI AMIT SHUKLA, JUDICIAL MEMBER**

ITA No.2506/Del/2019
Asstt. Year: 2013-14

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| DCIT, Circle-1(1) Gurgaon. | Vs. | DARCL Logistics Ltd. M-2, Himland House, Karampura Commercial Complex, New Delhi - 110 015 PAN AAACD2086J |
| (Appellant) | | (Respondent) |

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|---------------------------|--|
| Assessee by: | Shri K.M.Gupta, Advocate Shri Anubhav Rastogi, Advocate |
| Department by : | Shri Harpal Singh, Sr. DR |
| Date of hearing: | 25.10.2021 |
| Date of pronouncement: | 25.10.2021 |

ORDER

PER AMIT SHUKLA, J.M.

The aforesaid appeal has been filed by the revenue against impugned order dated 12.4.2016, passed by Ld. CIT(Appeals)-3, New Delhi for the quantum of assessment passed u/s 143(3) for the assessment year 2013-14 on the following grounds :-

- “1. Ld. CIT(A) has erred on fact and in law in restricting the disallowance to Rs.34,000/- from Rs. 1,48,08,107/- made by the Assessing Officer under Section 14A of the Income Tax Act, 1961.

2. *Ld. CIT(A) has erred on fact and in law in ignoring CBDT Circular No.5 of 2014 dated 11.02.2014 which clarifies that disallowance under Rule 8D read with Section 14A of the Income Tax Act is to be made even where taxpayer in a particular has not earned any exempt income.*
3. *Ld.CIT(A) has erred in deleting the addition of Rs. 15,76,774/- made by the Assessing Officer on account of bad debts without considering the facts that assessee has failed to provide confirmation from the employees/drivers to whom the advance was paid.*
4. *That the appellant craves for the permission to add, delete or amend grounds of appeal before or at the time of hearing of appeal.”*

2. At the outset, we find that in so far as the disallowance u/s 14A is concerned, it is an admitted fact that total exempt income earned by the assessee was Rs. 34,000/- on account of dividend income where AO has made the disallowance of Rs. 1,48,08,107/-. Ld. CIT (A) has restricted the disallowance to the extent of exempt income after following the decision of Hon'ble Jurisdictional High Court in the following cases :-

1. Joint Investments Pvt. Ltd. vs. CIT in ITA No. 117/2015

2. Cheminvest Ltd. vs. CIT 378 ITR 333

3. CIT vs. Triveni Engg. & Industriese Ltd. (2010) 8 taxmann. Com

Accordingly ground No. 1 raised by the assessee is dismissed.

3. In so far as the addition of Rs. 15,76,774/- made on account of bad debt, the brief facts are that assessee has claimed irrecoverable balances amounting to Rs. 99,68,637/- which have been written off by the appellant. After perusal of the details related to these balances

written off, the AO observed that an amount of Rs. 15,76,774/- relates to the balances which were advanced to the employees/drivers of the appellant company. The AO has disallowed this sum by stating that the same are not allowable u/s 36(2) of the Act.

4. Ld. CIT(A) has deleted the said disallowance after observing as under :-

*“6.3 I have gone through the facts of the case and the submission made by” the AR. It has been contended that the AO has disallowed the irrecoverable balances which were advanced to employees and drivers, by treating the same as bad debts whereas the appellant has not made the claim u/s 36(vii) of the Act but u/s 28 and/or u/s 37 of the Act. It has been submitted that these expenses are allowable as trading loss as it is incidental to the business activities. The AR has also furnished the details of these "advances written off which shows that the advances were made to the employees/drivers and these advances have become irrecoverable as these employees/drivers have left the employment of the appellant company. The AR has relied upon the judgment of **Hon'ble Delhi High Court in the case of CIT vs. Triveni Engg. & Industries Ltd., [2010] 8 taxmann.com 135 (Delhi)** along with other decisions. On perusal of the facts of the case and the legal position on the issue as decided by the jurisdictional High Court, I am of the opinion that the facts in this case are similar and therefore, the addition made by the AO is deleted and the ground of appeal is allowed”*

5. After hearing both parties we find that it is not a dispute that an amount of Rs. 15,76,774/- which were advanced to the employees and drivers had become irrecoverable and assessee has not claimed as a bad debt but as a business loss, which is clear from the submissions made during the course of the assessment proceedings, and the details of these advances were furnished before the AO and Ld. CIT

(A). Assessing Officer has not disputed that these advances have become irrecoverable. Under these circumstances it is nothing but the loss incurred during the course of business and we do not find any infirmity in the findings and conclusion of the Ld. CIT (A) as incorporated above and the same is confirmed. Accordingly this ground raised by the revenue is dismissed.

6. In the result the appeal of the revenue is dismissed.

Order pronounced in the Open Court on 25th October, 2021.

sd/-
(G.S. PANNU)
PRESIDENT

sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER

Dated: 25 /10 /2021

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Copy forwarded to

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi