

IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC” Bench, Mumbai
Before Shri Shamim Yahya, Accountant Member

I.T.A. No. 6355/Mum/2019
(Assessment Year 2013-14)

ITO-12(2)(2) Room NO.146A, 1 st Floor Aaykar Bhawan Mumbai-400 020 PAN : AAACF4112H (Appellant)	Vs.	Frame Impex Private Limited Shop NO.3, Bldg No.4 Ground Floor Angel Landmark, Sector-6 Yashwant Viva Towship Vasai(E), Thane-401 209 (Respondent)
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Assessee by	None
Department by	Ms.Smita Verma
Date of Hearing	12.10.2021
Date of Pronouncement	16.12.2021

O R D E R

Per Shri Shamim Yahya (AM) :-

This appeal by the revenue is directed against the order of learned Commissioner of Income Tax (Appeals)-20 dated 06.06.2019 and pertain to assessment year 2013-14.

2. Grounds raised is that Ld.CIT(A) has erred in observing that expenses relating to exempt income cannot be added to the book profit u/s. 115JB and is a debatable issue which cannot be covered u/s. 154.

3. On the impugned issue, I note that Ld.CIT(A) has passed following order.

“ I have considered the submissions of the appellant. I agree with the AR that the issue whether the disallowance made under 14A can be added in the computation of book profit under section 115JB is a debatable issue and therefore, the AO did not

have jurisdiction to add the disallowance made under 14A in the computation of book profit under section 115JB. I also note that the Hon'ble Special Bench in the case of Vireet Investments Private Limited [502/DI/2012] has held that the disallowance under 14A cannot be added to the net profit for determining the book profit under section 115JB. In view of the above, I direct AO to delete the addition of Rs. 4,03,261 made in the computation of book profit.”

4. Against the above order, this revenue appeal has been filed.

5. Upon hearing the Ld. DR and perusing the record. I note that there is no infirmity in the order of Ld.CIT(A). The AO certainly cannot add to the book profit disallowance u/s. 14A under section 115JB. The revenue submission that the section clearly provides such an addition is totally incorrect. Nowhere section 115JB prescribes that disallowance u/s. 14A has to be imported to section 115JB. This issue is well settled by the Hon'ble Special Bench in the case of Vireet Investments Private Limited [502/Del/2012], as well as the decision of Hon'ble jurisdictional High Court. It is well settled law that disallowance u/s. 14A cannot be imported to section 115JB. Hence, AO action of making such an addition u/s. 154 has correctly been held by Ld.CIT(A) to be not sustainable. Hence, I do not find any infirmity in the order of Ld.CIT(A). Accordingly, I uphold the same.

6. In the result, revenue appeal stands dismissed.

Pronounced in the open court on 16.12.2021

Sd/-
(SHAMIM YAHYA)
ACCOUNTANT MEMBER

Mumbai; Dated : 16 /12/2021

Thirumalesh, Sr.PS

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent

3. The CIT(A)
4. CIT
5. DR, ITAT, Mumbai
6. Guard File.

//True Copy//

BY ORDER,

(Assistant Registrar)
ITAT, Mumbai