

IN THE INCOME TAX APPELLATE TRIBUNAL
"C" BENCH, MUMBAI

SHRI OM PRAKASH KANT, ACCOUNTANT MEMBER
SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER

ITA No. 929/MUM/2021
(ASSESSMENT YEAR: 2015-16)

Chalet Hotels Limited,
Raheja Tower, Plot No. C-30,
Opp. SIDBI, Bandra Kurla Complex,
Bandra (East),
Mumbai - 400051
[PAN: AAACK0411E]

..... Appellant

Dy. Commissioner of Income Tax,
Central Circle-4(2)
Room No. 1918, Air India Building,
Nariman Point, Mumbai - 400021

Vs

..... Respondent

Appearances

For the Appellant/ Assessee : Shri Madhur Agrawal
For the Respondent/Department : Shri Sanjay V. Deshmukh

Date of conclusion of hearing : 26.04.2022
Date of pronouncement of order : 19.07.2022

ORDER

Per Rahul Chaudhary, Judicial Member:

1. By way of the present appeal the Appellant/Assessee has challenged the order, dated 26.03.2021, passed by the Ld. Commissioner of Income Tax (Appeals)-52, Mumbai, [hereinafter referred to as 'the CIT(A)'] for the Assessment Year 2015-16, whereby the Ld. CIT(A) had partly allowed the appeal filed by the Appellant/Assessee against the Assessment Order,

dated 30.12.2019, passed under Section 143(3) read with Section 153A of the Act.

2. The solitary ground of appeal raised by the Appellant is as under:

“Ground No. 1

On the facts and circumstances of the case, the Ld. CIT(A) erred in law by upholding the action of the AO and thereby confirming disallowance under section 14A of the Act of Rs. 5,73,35,740/-. The Appellant pray’s before your Honor that the said disallowance may kindly be deleted.”

3. The relevant facts, in brief, are that assessment under Section 143(3) of the Act was framed by the Assessing Officer vide order, dated 12.10.2017, at a loss of INR 1,30,78,89,795/-, after making, inter alia, a disallowance of INR 27,15,12,687/- under Section 14A of the Act. The Appellant challenged the aforesaid disallowance in appeal before CIT(A) who granted relief to the Appellant vide order, dated 23.03.2019, by restricting the disallowance to INR 5,86,52,973/- being the suo-motu disallowance offered by the Assessee in the return of income.

- 3.1 Meanwhile search action was carried out on the Appellant on 30.11.2017. Pursuant to such search, assessment under Section 153A read with Section 143(3) of the Act was framed on the Appellant vide order, dated 30.12.2019, whereby total income of the Appellant was computed by the Assessing Officer under Section 153A read with Section 143(3) of the Act by taking loss of INR 13,17,00,853/- (*assessed earlier under Section 143(3) of the Act vide order dated 12.10.2017*) as the

base without granting the benefit of the relief granted by the CIT(A) in appeal vide order, dated 23.03.2019, in relation to disallowance made by the Assessing Officer under Section 14A of the Act.

- 3.2 The Appellant preferred appeal before CIT(A) against the aforesaid Assessment Order, dated 30.12.2019, passed under Section 153A read with Section 143(3) of the Act which was partly allowed. On the issue of disallowance under Section 14A, the CIT(A), in his order dated 26.03.2021, directed the Assessing Officer to re-compute income as determined by the Assessing Officer vide order dated 12.10.2017 passed under Section 143(3) of the Act after giving effect to the order dated 23.09.2019 passed by the CIT(A), and to take the same as the starting point for the purpose of computing income under Section 153A read with Section 143(3) of the Act while giving effect to the order passed by the CIT(A) dated 26.03.2021.
- 3.3 The Appellant is in appeal before us against the above directions given by the CIT(A) vide order, dated 26.03.2021, as in the meanwhile, vide order dated 11.01.2021, the Tribunal has granted further relief to the Appellant by restricting the disallowance under Section 14A of the Act to INR 13,17,233/- being amount of exempt income earned by the Appellant during the relevant previous year in ITA No. 3747/Mum/2019 in appeal filed by the Appellant against the earlier order of CIT(A), dated 23.09.2019.
4. In the above factual matrix, the Ld. Authorised Representative for the Appellant appearing before us submitted that, in effect,

the issue in appeal before us stands covered by the decision of the Tribunal in ITA No. 3747/Mum/2019 for the same assessment year and submitted that the Assessing Officer be directed to compute income by taking into account the aforesaid decision of the Tribunal. A copy of the order of the aforesaid order Tribunal was provided to the Ld. Departmental Representative who verified the same.

5. Having perused record, we find that the averments made by the Learned Authorised Representative are factually correct. The disallowance under Section 14A of the Act made in assessment order, dated 12.10.2017, passed under Section 143(3) of the Act, in effect, stood reiterated in the Assessment Order, dated 30.12.2019, passed under Section 153A read with Section 143(3) of the Act as the Assessing Officer took income assessed under Section 143(3) of the Act [*which including disallowance under Section 14A of the Act*] as the base for computing income under Section 153A read with Section 143(3) of the Act. We note that vide order, dated 11.01.2021, the Tribunal has restricted the disallowance under Section 14A of the Act to INR 13,17,233/- in the case of the Appellant for the Assessment Year 2015-2016 in appellate proceedings having its roots in the assessment order, dated 12.10.2017, passed under Section 143(3) of the Act. Accordingly, we accept the contention of the Learned Authorized Representative for the Appellant and direct the Assessing Officer to restrict the disallowance under Section 14A of the Act to INR 13,17,233/- as per the aforesaid order of the Tribunal in ITA No. 3747/Mum/2019.

6. In view of the above, Ground No. 1 as well as the appeal preferred by the Assessee is allowed.

Order pronounced on 19.07.2022.

Sd/-

(Om Prakash Kant)
Accountant Member

Sd/-

(Rahul Chaudhary)
Judicial Member

मुंबई Mumbai; दिनांक Dated : 19.07.2022
Alindra, PS

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT(A)-
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR,
ITAT, Mumbai
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार /(Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai