

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
DELHI BENCH: 'SMC' NEW DELHI**

**SHRI SAKTIJIT DEY, JUDICIAL MEMBER**

ITA No.4878/Del/2018  
Assessment Year: 2014-15

Universal Stock Brokers Pvt. Ltd., 501 KM Trade Towers, H3, Sector-14, Kaushambi, Ghaziabad.	<b>Vs.</b>	ITO, Ward-27(1), New Delhi.
<b>PAN : AABCU3096Q</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

Appellant by	Shri Tarun Rohtagi, CA
Respondent by	Shri Om Parkash, Sr. DR

Date of hearing	24.08.2022
Date of pronouncement	24.08.2022

**ORDER**

This is an appeal by the assessee against order dated 17.04.2018 of learned Commissioner of Income-Tax (Appeals)-32, New Delhi pertaining to assessment year 2014-15.

2. At the outset, I must observe, the appeal was earlier disposed of vide order dated 31.01.2022. However, while considering a miscellaneous application filed by assessee, the order was recalled and

the appeal was restored to its original position. This is how the appeal came up for hearing before me.

3. The only issue arising in the appeal relates to disallowance of Rs.5,69,384 under Section 14A of the Income-Tax Act,1961 read with Rule 8D.

4. Briefly, the facts are, the assessee is a resident corporate entity engaged in the business of share broking and financing activities. In the year under consideration, assessee had earned exempt income by way of dividend amounting to Rs.13,15,087. Whereas, assessee disallowed an amount of Rs.71,094 towards expenditure attributable for earning the exempt income. However, the assessing officer was of the view that the suo motu disallowance made by assessee is not in accordance with Rule 8D. Accordingly, he proceeded to make further disallowance of Rs.5,69,384. While doing so, he relied upon similar disallowance made while completing assessment in assessment years 2012-13 and 2013-14. Assessee contested the aforesaid disallowance before learned Commissioner (Appeals). However, the addition was sustained.

5. Before me, it is a common point between the assessee and the revenue that the issue in dispute is covered by the decision of the Tribunal in assessee's own case in assessment year 2013-14. On a perusal of the aforesaid order of the Tribunal dated 31.01,2022 in ITA No.2495/Del/2018, it is observed, while deciding identical issue the Tribunal has held as under:

*“8. We have heard the rival submissions and also perused the relevant findings given in the impugned order. On the perusal of the computation of income, it is seen that the assessee had shown dividend income of Rs.44,47,102/- which was claimed as exempt. The assessee for the purpose of computing the disallowance has taken direct expenses relevant to turnover in the ratio of 4.57% and thereby allocating disallowance to Rs.2,59,873/-. The Id. Assessing Officer has taken the following expenses debited to the profit and loss account for the purpose of disallowance:*

- (1) Employee Benefit Cost. 34,74,595*
- (2) Finance Costs 1,03,65,729*
- (3) Other Expenses. 1,78,75,983*
- (4) Depreciation 9,95,953*

*After deducting the expenses considered by the assessee at Rs.56,57,985/-, AO for the remaining expenses has made the disallowance @ 4.57% as taken by the assessee.*

9. First of all, in so far as the amount of depreciation debited to the profit and loss account of Rs.9,95,953/- cannot be said to be remotely connected with earning of exempt income. Therefore, at the outset, the same should be removed for the purpose of disallowance. In so far as the finance cost is concerned, we find that the Assessing Officer has taken the gross interest of Rs.1,03,65,729/-, whereas the assessee has also earned interest and net cost of interest is of only Rs.38,98,696/-, which alone if at all should have been taken for the disallowance. However, from the perusal of the balance sheet, we find that reserve surplus of the assessee itself is Rs.76.4 crores and share capital of Rs.31 lakhs, which is more than the investments made and accordingly there could be no finance cost which can be considered for the purpose of disallowance because if assessee has surplus interest free funds then it cannot be presumed that assessee has invested in securities out of interest bearing funds and hence the same is directed to be removed from the computation.

10. Coming to the Employee Benefit Cost and Other Expenses, the same can be said to be attributable for the purpose of allocating the expenditure. However, the ratio of 4.54% which was allocated by the assessee for the direct expenses is too high to be applied for indirect expenses, because some of these expenses have already been taken by the assessee as direct expenses for the purpose of disallowance as incorporated above. The details of these expenses debited to the profit and loss account are as under:-

No.	NOTES TO THE BALANCE SHEET	AMOUNT [Rs]
(24)	<b>Expenses</b>	
	Audit Fees	32,613.00
	API Annual Charges	150,000.00
	Co-Hosting Charges	1,379,863.03
	Cenvat Credit (Unclaimed)	756,674.27
	Computer & Data Processing Expenses	140,511.33
	Consultancy Charges	125,000.00
	Conveyance	21,025.00
	Depository Charges	53,335.98
	Diwali Expenses	34,803.00
	Donation	2,000.00
	Electricity Expenses	159,681.41
	Fees & Subscription	1,201,983.00
	Insurance	16,529.00
	Lease Line Charges	728,951.96
	Misc Expenses	12,246.50
	Misc Exchange Charges	87,427.94
	Office Repairs & Maintenance	130,456.00
	Printing & Stationery	Nil
	Rent	780,000.00
	ROC Expenses	3,100.00
	SEBI Turnover Fees Capital Market	7,851.00
	SEBI Turnover Fees F&O Market	54,286.00
	Short & Excess	288.55
	Stamp Duty Charges	4,366.00
	STT Paid Capital Market	1,540,278.00
	STT Paid F&O Market	7,427,052.10
	Telephone Exp.	31,691.71
	Transaction Charges Capital Market	100,396.89
	Transaction Charges F&O Market	2,705,855.50
	Travelling Expenses	45,108.00
	Vehicle Running & Maint.	49,950.00
	VSAT Charges	92,657.99
		<b>17,875,983.16</b>
(25)	<b>Depreciation &amp; Amortisation</b>	
	Depreciation	977,839.00
	Preliminary Expenses	18,114.00
		<b>995,953.00</b>

11. *Most of these expenses cannot be said to be relatable or attributable for earning dividend income and, therefore, in all fairness we hold that 1% of the Employee Benefit, Directors salary and salary to the staff and 1% of the other expenses would be reasonable for attributing the disallowance for the purpose of disallowance under Section 14A of the Act. Thus, the Assessing Officer is directed to be compute disallowance out of Employees expenses and other expenses @ 1 % .”*

6. Since, facts involved in the impugned assessment year are materially identical, I direct the assessing officer to follow the directions of the Tribunal in assessment year 2013-14 (supra) and make disallowance under Section 14A of the Act accordingly.

Grounds are partly allowed.

7. In the result, the appeal is partly allowed.

***Order pronounced in the open court on 24<sup>th</sup> August, 2022.***

***Sd/-***  
**(SAKTIJIT DEY)**  
**JUDICIAL MEMBER**

Dated: 24<sup>th</sup>August, 2022.  
Mohan Lal

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi

<b>Sl. No.</b>	<b>Particulars</b>	<b>Date</b>
1.	Date of dictation (Order drafted through Dragon software):	24.08.2022
2.	Date on which the draft of order is placed before the Dictating Member:	29.08.2022
3.	Date on which the draft of order is placed before the other Member:	
4.	Date on which the approved draft of order comes to the Sr. PS/PS:	29 .08.2022
5.	Date of which the fair order is placed before the Dictating Member for pronouncement:	29.08.2022
6.	Date on which the final order received after having been singed/pronounced by the Members:	30.08.2022
7.	Date on which the final order is uploaded on the website of ITAT:	31.08.2022
8.	Date on which the file goes to the Bench Clerk	31.08.2022
9.	Date on which files goes to the Head Clerk:	
10.	Date on which file goes to the Assistant Registrar for signature on the order:	
11.	Date of dispatch of order:	