

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

**BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER
AND**

SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER

I.T.A. No. 3225/DEL/2019 (A.Y 2014-15)

Addl. CIT, Special Range : 9, New Delhi. (APPELLANT)	Vs.	M/s. TV Today Network Ltd., F-26, 1 st Floor, Connaught Place, New Delhi-110 001. PAN No. AABCT0424B (RESPONDENT)
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Assessee by :	Shri Madhur Aggarwal, Adv.
Department by:	Shri R. S. Yadav, Sr. D. R.;

Date of Hearing	25.08.2022
Date of Pronouncement	02.09.2022

ORDER

PER YOGESH KUMAR U.S., JM

This appeal is filed by the Revenue against the order dated 31.01.2019 of the Id. Commissioner of Income Tax (Appeals)-16, New Delhi [hereinafter referred to CIT (Appeals)] for Assessment Year 2014-15.

2. The Revenue has raised the following ground of appeal:-

1. *“On the facts and circumstances of the case the CIT (A) erred in deleting additions of Rs.6,27,75,411/- made on account of “Consumption debtors” without appreciating that the above expenditure was in the nature of provision and was a contingent liability. ”*
2. *“On the facts and circumstances of the case the CIT (A) erred in deleting disallowance of Rs 56,20,737/- u/s 14A by holding that disallowance u/s 14A cannot exceed exempt income without appreciating that in none of the judgement relied upon by CIT (A), the Circular No 5/2014 has been declared illegal”*
3. *“On the facts and circumstances of the case the order of the CIT (A) is perverse.”*

3. Brief facts of the case are that, the assessee is engaged in the business of broadcasting, telecasting, relaying, transmitting or distributing audio video or other programmes of software for television, radio and other media. The return declaring income of Rs. 95,75,02,980/- was filed by the assessee. The case of the assessee was selected for scrutiny and assessment order came to be passed on 29/02/2016 by assessing the income of the assessee at Rs. 105,16,60,320/- as against returned income of Rs. 95,75,02,980/-. As against the assessment order dated 29/12/2016, the assessee has preferred an Appeal before the CIT(A). The Ld.CIT(A) vide order dated 31/01/2019 partly allowed the Appeal.

4. Aggrieved by the order dated 31/01/2019 passed by Ld.CIT(A), the Department of Revenue has preferred the Appeal on the grounds mentioned above.

5. We have heard the parties, perused the material on record and gave our

thoughtful consideration. Ground No. 1 is in respect of deleting the addition of Rs. 6,27,75,411/- made on account of 'consumptions debtors'. The very same issue involved in the Ground No. 1 has been decided in favour of the assessee for the Assessment Year 2008-09 and 2009-10 in ITA No. 6080/Del/2012 and 4097/Del/2013, which has been followed by the Coordinate Bench of this Tribunal in ITA No. 7277/Del/2018 Assessment Year 2013-14 wherein it is held as under:-

"5. We find force in the contention of the ld. counsel for the assessee. This Tribunal in the ITA No. 6080/DEL/2012 and 4097/DEL2013 for Assessment Years 2008-09 and 2009-10 has considered a similar quarrel on identical set of facts and has decided the issue in favour of the assessee. The relevant findings read as under:-

"We have carefully considered the rival contention and found that the claim of the assessee is that company has given discount to its debtors based on consumption of Airtime during the current year. It filed its detail of the credit balance of the debt. From the details of credit balance of debtors, the learned assessing officer enquired about the details of the consumption debtor of Rs. 34,000,000/- which was explained by the assessee, that this is a discount account which is credited by the company by passing an accounting entry by crediting one control account having details of all the parties separately. As the assessee is in the business of the media the main source of income of the assessee company is broadcasting of advertisement in its channel. The assessee company sale space in its channels to advertiser usually a unit of sale of space is 10 seconds. The assessee company gave various schemes to its advertiser like consumption incentive, series discount etc. In case of consumption

incentive, the advertisers are given an offer that in case if it consumes particular amount of time during the given period for 4 broadcasting and advertising then it will be entitled to the consumption incentive. During the year, assessee has passed on this consumption incentive of Rs. 34059992/-. Learned CIT(A) has held that this is the expenditure in the nature of incentive to the advertiser and the assessee has also shown income against this expenditure. Before the learned CIT – A the assessee demonstrated by producing the copies of the deals of some of the parties and shown that it is not an asset or liability but actual expenditure. In view of this, he held that assessee is eligible for deduction of the above expenditure. The learned departmental representative could not point out any infirmity in the order of the learned CIT(A). Therefore, we confirm the order of the learned CIT(A) and dismiss ground number 4 of the appeal of the AO.”

6. On finding parity with the facts of the appeal under consideration, Ground No. 1 is dismissed.”

6. By respectfully following the above order and also the principle of consistency we dismiss Ground No. 1 of the Revenue.

7. The Ground No. 2 is in respect of deleting disallowance of Rs. 56,20,737/- u/s 14A of the Act on the ground that disallowance u/s 14A cannot exceed exempt income. The issue involved in Ground No. 2 is also decided in favour of the assessee in ITA No. 7277/Del/2018 for Assessment Year 2013-14. The facts of the case are that the A.O invoking provision of Section 14A of the Act, made disallowance of Rs. 56,27,37/- while making the said disallowance the Ld. A.O has recorded clear finding that *“the controversy raised in the instant case was the assessee had not earned or*

received any dividend in the year under consideration. Therefore, no disallowance can be made by invoking the provision of Section 14A.”

8. The Ld.CIT(A) after relying on the ratio laid down by the various Courts including Jurisdictional High Court held that disallowance u/s 14A made only if the assessee is in receipt of exempt income. As the assessee company has not received any exempt income during the year under consideration, therefore, the question of disallowance u/s 14A of the Act does not arise. Therefore, in the facts and circumstances and also by following the order of this Tribunal in assessee's own case for Assessment Year 2013-14 (supra), we do not find merit in Ground No. 2 of the Revenue's Appeal.

8. In result, the appeal filed by the Revenue is dismissed.

Order pronounced in the open court on : **02 /09/2022.**

Sd/-

**(SHAMIM YAHYA)
ACCOUNTANT MEMBER**

Sd/-

**(YOGESH KUMAR U.S.)
JUDICIAL MEMBER**

Dated : 02/09/2022

**R. N* Sr. PS*

Copy forwarded to :

1. Appellant
2. Respondent
3. CIT
4. CIT (Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI

