

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

SHRI M. BALAGANESH, ACCOUNTANT MEMBER
SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER

ITA No. 1325/MUM/2017
(Assessment Year: 2010-11)

&

ITA No. 2146/MUM/2017
(Assessment Year: 2011-12)

M/s The Cricket Club of India Ltd.,
J.N. Tata Pavilion,
Dinshaw Vachha Road,
Mumbai - 400020
[PAN: AACCT6935C]

..... Appellant

Vs

Asst. Commissioner of Income Tax-
1(2)(1), Mumbai,
Aaykar Bhavan, Mumbai - 400020

..... Respondent

Appearances

For the Appellant/Assessee : Shri Sunil Nahta &
Ms. Shivani Chaurasia

For the Respondent/Department :
Shri B.K. Bagchi

Date of conclusion of hearing : 06.06.2022
Date of pronouncement of order : 26.08.2022

ORDER

Per Rahul Chaudhary, Judicial Member:

1. These are two appeals filed by the Appellant/Assessee for the Assessment Years 2010-11 and 2011-12. Since the appeals involved identical issue pertaining to disallowance under Section 14A of the Income Tax Act, 1961 [hereinafter referred to as 'the Act'], the same were heard together and are therefore, being disposed of by way of a common order.

ITA No. 1325/Mum/2017

2. We would first take appeal for Assessment Year 2010-11 which arises from the order dated 14.12.2016 passed by the Ld. Commissioner of Income Tax (Appeals)-2, Mumbai [hereinafter referred to as 'the CIT(A)'].
3. The solitary ground raised in appeal pertains to disallowance under Section 14A of the Act.
4. The relevant facts in brief are that Appellant, stated to be a member's club incorporated for the benefit of its members, filed return of income, for the Assessment Year 2010-2011 on 15.10.2010 declaring total income of INR 1,93,57,341/- after claiming benefit of principle of mutuality in respect of income from the club members. The case of the Appellant was selected for scrutiny and regular scrutiny assessment under Section 143(3) of the Act was framed on the Appellant by the Assessing Officer vide order, dated 30.03.2013 assessing Total Income at INR.5,98,30,570/- after making, inter alia, a disallowance under Section 14A of the Act amounting to INR.8,79,268/- being 2% of the exempt dividend income of INR.4,39,63,412/-.
5. Being aggrieved, the Appellant carried the issue in appeal before CIT(A). The CIT(A), however, confirmed the above disallowance INR.8,79,268/- made by the Assessing Officer under Section 14A of the Act. Therefore, the Appellant is in appeal before us.
6. Having heard the rival submissions and perused the material on record, we note that in the case of the Appellant for the Assessment Year 2001-02, the Tribunal has, in ITA No.

4258/Mum/2005, vide order dated 14.07.2008, decided identical issue in favour of the Appellant holding as under:

“7. Coming to the third ground of objection by the assessee, it is against confirming the disallowance of Rs. 5,93,864/- being 2% of total dividend income earned during the year, under section 14A of the Act. According to the assessee, the CIT(A) failed to appreciate that the assessee did not claim any expenditure against the dividend income received.

8. We heard the rival submissions. It is an admitted position that if the expenditure is incurred for earning dividend income, then only the proportionate expenses could be disallowed. Since the assessee has not claimed any expenditure against the income received, there is no question of making any disallowance. The appeal by the assessee, hence, on this ground is allowed.”
(Emphasis Supplied)

7. Similarly, in the case of the Appellant for the Assessment Year 2002-03, the Tribunal has, in ITA No. 6561/Mum/2005, vide order dated 08.04.2008, held as under:

“7. Remaining ground in the appeal of the Department is against deleting the addition of Rs.3,53,801/- holding that none of the expenses can be linked with the earning of dividend income. The Assessing Officer disallowed the same amount for the reason that expenditure of Rs.3,51,801/- was incurred for earning dividend. The detailed submissions were filed before the CIT(A) and on perusal of the details, it was found by the CIT(A) that none of the expenses towards taxable income can be linked with the earning of dividend income. It was observed by the CIT(A) that in such a situation it cannot be said that the expenditure relating to earning of dividend has been claimed as deduction in computing of taxable income. Accordingly, the C(T)A deleted the addition of Rs.3,53,801/-.

8. After considering the order of the Assessing Officer and the CIT(A) again we see no reason to interfere in the finding of the

Ld. CIT(A) as learned CIT(A) has deleted the additions by ascertaining the fact that no expenditures were incurred for earning dividend. Accordingly, we confirm the order of the CIT(A) in this respect also.

8. In the instant case also the Appellant had filed detailed submission before the CIT(A) to establish that the Appellant has claimed deduction for expenditure directly relatable to the taxable income. We have perused the submission filed before the CIT(A), computation of income, audited annual accounts and the Details of Receipts & Payments placed by the Appellant before us. It is clear that the Appellant has not claimed deduction for entire expenses incurred by the Appellant during the year. The Appellant has claimed deduction for only those expenses which were directly related to the income offered to tax and have been incurred for earning such income. Therefore, the question of making disallowance under Section 14A of the Act does not arise. In the case of the Appellant for the Assessment Year 2001-02 and 2002-03, under identical facts and circumstances, the disallowance made under Section 14A of the Act was deleted. Respectfully, following the aforesaid decisions of the Tribunal, we delete the disallowance of INR.8,79,268/- made by the Assessing Officer under Section 14A of the Act. Ground No. 1(a) & (b) raised by the Appellant are allowed.

ITA No. 2146/Mum/2017

9. We would now take up appeal for Assessment Year 2011-12 which arises from the order dated 19.12.2016 (read with corrigendum dated 23.02.2017) passed by the CIT(A).
10. For the Assessment Year 2011-12, in identical facts and circumstances, the Assessing Officer made disallowance of INR

1,07,48,473/- under Section 14A of the Act read with Rule 8D of the Income Tax Rules, 1962 vide order dated 30.12.2016 passed under Section 143(3) read with Section 263 of the Act. However, the aforesaid disallowance was reduced to INR.7,53,351/- (being 2% of the exempt income of INR 3,76,67,570/-) by the CIT(A) in appeal filed by the Appellant vide order dated 19.12.2016 (read with corrigendum dated 23.02.2017). The Appellant is now in appeal before us.

11. In the instant appeal, grounds identical to those raised in appeal for the Assessment Year 2010-11 have been raised. Since the factual matrix is also similar, our findings for the Assessment Year 2010-11 shall apply mutatis mutandis to the instant appeal for the Assessment Year 2011-12. Accordingly, in view of paragraph 6-9 above, we allow Ground No. 1(a) and 1(b) raised by the Appellant and delete the disallowance of INR.7,53,351/- under Section 14A of the Act.
12. In result, both the appeals filed by the Appellant/Assessee, being ITA No. 1325/Mum/2017 for Assessment Year 2010-11 and ITA No. 2146/Mum/2017 for the Assessment Year 2011-12, are allowed.

Order pronounced on 26.08.2022.

Sd/-
(M. Balaganesh)
Accountant Member

Sd/-
(Rahul Chaudhary)
Judicial Member

मुंबई Mumbai; दिनांक Dated : 26.08.2022
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.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

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