

IN THE INCOME TAX APPELLATE TRIBUNAL DELHI

(DELHI BENCH 'E' : NEW DELHI)

**BEFORE SH. N. K. BILLAIYA, ACCOUNTANT MEMBER
AND
SH. ANUBHAV SHARMA, JUDICIAL MEMBER**

ITA No.1850/Del/2016, A.Y. 2011-12

Mission Holdings Pvt. Ltd. 311, 3 rd Floor, Vardhman Plaza, Pocket 7, Plot No. 6, Sector 12, Dwarka, New Delhi 110070 (APPELLANT)	Vs.	Income Tax Officer Ward 6(4), New Delhi (RESPONDENT)
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Assessee by	None
Revenue by	Shri Jeetender Chand, Sr. DR

Date of hearing:	21.09.2022
Date of Pronouncement:	21.09.2022

ORDER

PER ANUBHAV SHARMA, JM:

The appeal has been filed by the Assessee against order dated 27.01.2016 passed in appeal no. 319/2015-16 for assessment year 2011-12 by Commissioner of Income Tax (Appeals)-20, New Delhi (hereinafter referred to as the First Appellate Authority in short 'Ld. F.A.A.') in regard to the appeal before it arising out of assessment order dated 28.02.2014 u/s 143(3) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') passed by ITO, Ward-6(4), New Delhi.

2. The facts in brief are assessee has filed return of income on 23.09.2011 and has shown loss for the year at Rs. 20,716/-. In the said return of income Book Profit u/s 115JB has been shown at (-) Rs. 31,331/-. Same was processed u/s 143(1) of the I.T.Act. Subsequently, the case was selected for scrutiny. Notice dated 14.09.2012 u/s 143(2) was issued and served upon the assessee. Ld AO observed that the assessee Company has very low capital base but it has made very huge investments in shares of its sister concern by taking high cost bearing loans from market and has been earning huge dividend income. Further that the assessee Company has not been carrying on its main activities for which it was incorporated so it has no income to service its debts. Further, it has been either taking new loans to pay interest on old loans and / or it has been making renewals of old loans. It has been paying huge interest on such loans and capitalizing the amount of interest so paid on such loans whereas it has been earning tax free / exempted dividend income from investments. So, main issues which Ld AO dealt were :

-Justification of capitalisation of interest paid on loans utilized to make above investments whereas it has earned a dividend income, of Rs. 1,34,69,000/- from such investments; and

-justification of giving interest free loans to a concern whereas the assessee has taken high cost bearing loans from the market and paying huge interest thereon.

2.1 Ld AO observed, when the assessee is paying huge interest on loans taken ranging from the rate of interest upto @ 19% then there is no justification for not charging interest on loans of Rs. 5,23,78,868/- given to a concern M/s. Feedback Integrated Infrastructure Developers P. Ltd. which is even not its sister concern. Also, the assessee company does not have its own fund.

3. Accordingly, the ld. AO had made disallowances which were challenged before Ld. CIT(A) who had sustained the same and the assessee has come before Tribunal raising following grounds :

“1. That the CIT (Appeals) erred on facts and in law in upholding the action of the assessing officer in treating interest expenditure of Rs. 2,60,63,589 incurred on borrowed funds after the date of acquisition of shares, which were held as investments/capital assets, as disallowable under section 14A read with Rule 8D of Income-Tax Rules, 1962 (“the Rules”), while computing income-tax under the normal provisions as well as book profits under section 115JB of the Income-tax Act, 1961 (“the Act”).

1.2 That the CIT (Appeals) erred on facts and in law in not adjudicating whether interest expenditure incurred on borrowed funds after the date of acquisition of shares, which were held as investments/capital assets, ought to be capitalized to the cost of such shares or were allowable revenue expenditure.

1.3 That the CIT (Appeals) erred on facts and in law in holding that the provisions of section 14A are applicable to both capital expenses as well as revenue expenses incurred in connection with acquisition of shares resulting in earning of exempt dividend income.

1.4 Without prejudice, that the CIT (Appeals) erred on facts and in law in not reversing the action of the assessing officer of considering the interest expenditure, capitalized to the cost of shares in the books, as revenue expenditure and adding back the same to book profits under section 115JB of the Act, being beyond the scope of said section.

1.5 Further without prejudice, the CIT(Appeals) erred on facts and in law in sustaining the disallowance made by the

assessing officer under section 14A of the Act while computing book profit under section 115JB of the Act.

The appellant craves leave to add to, alter, amend or vary the above grounds of appeal before or at the time of hearing.”

4. Heard. As the case was called for hearing, none has appeared for the assessee. Records show on last date of hearing 20.06.2022 also non-appeared and notices have been issued but none has appeared for the assessee.

4.1 Ld. DR pointed out that assessee's appeal ITA No. 1712/Del/2017 was also dismissed on 27.07.2022 by Co-ordinate Bench and there also assessee had appeared. Accordingly Ld. DR was heard.

5. Appreciating the matter on record it can be observed that Ld. CIT(A) in his findings at para no. 5.3, has taken into consideration all the submissions on behalf of the assessee while determining the issues against the assessee. Prima facie, no other opinion can be justified. There is no merit in the grounds as raised. **The appeal is dismissed *ex parte*.**

Order pronounced in the open court on 21st September, 2022.

Sd/-
(N.K.BILLAIYA)
ACCOUNTANT MEMBER

Sd/-
(ANUBHAV SHARMA)
JUDICIAL MEMBER

Date:-21st.09.2022

Binita, SR.P.S

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI