

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'H', NEW DLEHI**

**BEFORE SHRI SAKTIJIT DEY, JUDICIAL MEMBER
AND
SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER**

**ITA No. 5254/Del/2019
Assessment Year: 2013-14**

ACIT, Circle 27(1),
New Delhi.

Versus Unitech Holdings Ltd.,
6, Community Centre,
Saket, New Delhi.

PAN: AAACU0237C

(Appellant)

(Respondent)

Revenue by: Ms. Sapna Bhatia, CIT(DR)

Assessee by: None

Date of hearing : 13.06.2023

Date of pronouncement : 13.06.2023

ORDER

PER SAKTIJIT DEY, J.M.:

This is an appeal by the Revenue against order dated 28.03.2019 of learned Commissioner of Income-tax (appeals)-16, New Delhi for the assessment year 2013-14.

2. When the appeal was called out for hearing, none appeared on behalf of the assessee to represent the case despite service of notice of hearing, as evidenced by postal acknowledgement kept on record. In view

of the aforesaid, we proceed to dispose of the appeal *ex parte* qua assessee after hearing learned Departmental Representative and based on materials available on record.

3. Briefly, the facts are, the assessee is a resident corporate entity stated to be engaged in the business of non-banking financial activities. In course of assessment proceedings, the Assessing Officer, on examining the financial statement of the assessee, noticed that the assessee has shown an amount of Rs.130,09,26,212/- as outstanding balance of share application money as on 31.03.2013. He observed that the amounts have remained outstanding for a period of more than 60 days, which is a reasonable period for allotment of shares. From the aforesaid facts, he concluded that in the garb of share application money, the assessee has chosen to forego the substantial amount of interest, which ought to be added to its income. Accordingly, he imputed interest @ 14% on the outstanding share application money and made addition of Rs.18,21,29,670/-. The assessee contested the aforesaid addition before learned first appellate authority. Being convinced with the submissions of the assessee, learned first appellate authority deleted the addition.

4. We have heard learned Departmental Representative and perused the materials on record. As could be seen from the observations of learned first appellate authority, identical addition made by the Assessing Officer in assessee's own case in assessment year 2010-11 was deleted by the Tribunal in ITA No. 3266/Del/2014. It is further observed, in case of assessee's holding company, Unitech Ltd., as well, similar issue was decided by the Tribunal in favour of the assessee in ITA No. 6585/Del/2015 in assessment year 2011-12, Admittedly, the addition made by the Assessing Officer is nothing but notional interest computed on the share application money given to various companies by the assessee. Before us, learned Departmental Representative was not in a position to controvert the fact that in the preceding assessment years, the issue has been decided in favour of the assessee and its holding company. In view of the aforesaid, we do not find any reason to interfere with the decision of learned first appellate authority.

5. Next issue relates to disallowance of expenses of Rs.17,31,561/- u/s. 14A of the Act read with Rule 8D.

6. Having heard learned Departmental Representative, we find, it is the case of the assessee from the assessment stage itself that it has not earned any exempt income during the year under consideration. Whereas, the Assessing Officer without controverting the aforesaid claim of the assessee has proceeded to compute disallowance u/s. 14A read with Rule 8D. Learned Commissioner (Appeals) having factually found that in the year under consideration, no exempt income is earned by the assessee, has deleted the addition. Keeping in view the legal position on the issue as propounded in various judicial precedents, we do not find any infirmity in the decision of learned Commissioner (Appeals). Accordingly, we uphold the deletion of disallowance made by learned Commissioner (Appeals). Grounds raised are dismissed.

7. In the result, appeal is dismissed.

Order pronounced in the open court on 13/06/2023.

Sd/-

(N.K. BILLAIYA)
ACCOUNTANT MEMBER

Sd/-

(SAKTIJIT DEY)
JUDICIAL MEMBER

Dated:13.06.2023.

*aks/-