

**INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "E": NEW DELHI**

**BEFORE**

**SHRI G.S. PANNU, HON'BLE PRESIDENT  
AND  
SHRI AMIT SHUKLA, JUDICIAL MEMBER**

ITA No.6242/Del/2018  
Asstt. Year: 2013-14

ITO, Ward-16(4), New Delhi.	Vs.	Mission Holding Pvt. Ltd. (formerly known as Feedback Holding) 311, 3 <sup>rd</sup> Floor, Vardhman Plaza, Sector 12, Dwarka, New Delhi 110 078 PAN AAACF2095H
(Appellant)		(Respondent)

ITA No.1113/Del/2018  
Asstt. Year: 2014-15

Mission Holding Pvt. Ltd. (formerly known as Feedback Holding) 311, 3 <sup>rd</sup> Floor, Vardhman Plaza, Sector 12, Dwarka, New Delhi 110 078 PAN AAACF2095H	Vs.	ACIT, Circle-6(2), Room No. 390, C.R. Building, New Delhi - 110 001
(Appellant)		(Respondent)

Assessee by:	None
Department by:	Dr. Maninder Kaur, Sr. DR
Date of Hearing	15.06.2023
Date of pronouncement	26.07.2023

**ORDER**

**PER AMIT SHUKLA, JM**

The appeal for assessment year 2013-14 has been filed by the Revenue against the order dated 1.8.2018, passed by the Ld. CIT(A)-28 and appeal for assessment year 2014-15 has been filed by the assessee against

the order dated 30.11.2017. Since in both the years the issue pertains to disallowance under section 14A therefore the same were heard together and are being disposed of by way of consolidated order.

2. Brief facts qua the issue raised in assessment year 2013-14 are that the Ld. Assessing Officer has noted that assessee has shown receipts from dividend income amounting to Rs. 1,34,69,000/- and as against this, assessee has shown finance cost of Rs. 1,14,59,958/- and other expenses of Rs. 5,93,858/- and finally profit of Rs. 14,15,184/- were shown as dividend income claimed as exempt. Ld. Assessing Officer noted that assessee has made long term investment in shares of various companies by taking borrowed funds of which interest of Rs. 35,86,47,745/- was paid. However the assessee instead of claiming it as revenue expenditure has capitalised the cost of interest, i.e., it has not been claimed in the profit and loss account. The Ld. Assessing Officer held that assessee was not justified in capitalization the interest to the cost of investments in shares and such interest paid is purely revenue expenditure. He accordingly treated the entire interest expenses of Rs. 35,86,47,745/- and he computed the disallowance under section 14A at Rs. 37,29,54,271/-.

3. The Ld. CIT (A) has deleted the addition after observing and holding as under:-

*“3.2 I have considered the facts of the issues, basis of disallowance made by AO and submissions of the appellant. As can be seen from the assessment order, the interest expenses capitalized by appellant have been treated as revenue expenditure by AO and taken into consideration for computing the disallowance u/s 14A of IT Act. However, the AO has taken the wrong figure i.e. Rs. 35,86,47,745/- for the purpose of computing disallowance u/s 14A of the IT Act whereas the correct figure is Rs. 18,15,36,339/-, as mentioned by appellant in its submission. Further, there was no justification on the part of AO to treat the said interest expenses as revenue expenditure and allowing it as business expenditure when the appellant itself has disallowed it by capitalizing. Moreover, the expenses disallowed by AO cannot exceed to the exempt income shown by appellant in view of the decision of Hon'ble Jurisdictional High Court in the case of Joint Investment Pvt. Ltd vs. CIT. Therefore, there was no logic behind whole of the exercise carried out by AO. As can be seen from the*

*computation of income, the appellant itself has disallowed all the expenses, except Rs. 5,93,858/- as other expenses which are not related to dividend income, therefore, there was no rationale in treating the capital interest expenditure as revenue expenditure. Since the appellant itself has suo motu disallowed the expenses against the dividend income and any disallowance cannot go beyond the exempt income shown by assessee in view of the decision of Jurisdictional High Court, as mentioned above, the disallowance made by AO is unjustified and deserves to be deleted. I, therefore, delete the addition made by him and allow the grounds taken by the appellant.”*

4. None appeared on behalf of the assessee despite several notices sent on the address mentioned in the Form 36. Accordingly the appeal is being decided on the facts brought on record as well as written submissions filed by the assessee. The only income which has been received during the year by the assessee is dividend income of Rs. 1,34,69,000/- from the investment held in the shares of Feedback Infra Ltd. As per profit and loss account assessee has shown following revenue and expenses:-

a. Revenue from operations Dividend Income Rs. 1,34,69,000

Financing Cost Rs. -1,14,59,958  
Other Expenses Rs. - 5,93,858

Profit before Tax Rs. 14,15,184  
Provisions for Taxes NIL  
Profit Transferred to G. Res. Rs. 14,15,184

4. Before us Ld. CIT (DR) submitted that the Ld. Assessing Officer had given categorical reasons which are reproduced as under:-

*“Reasons for applying section 14A and Rule 8D*

*1.The dividend of Rs. 1, 34, 69,000/- received during the year from such investments has been claimed by the assessee as exempt / tax free.*

*2. Interest of Rs.35,86,47,745/- paid and capitalized during the previous year relevant to assessment year 2013-14 and claimed as cost of acquisition, is not allowable as discussed above. Since it is of the nature of Revenue and is subject to disallowance under section 14A read with Rule 8D.*

*3. The assessee company has huge investments in the form of shares of its sister concern and is earning huge dividend income of Rs. 1,34,69,000/- claimed as exempt u/s 10 (34) / tax free under the provisions of the Act.*

*4. The assessee company has not been carrying on its main business activity but has been paying huge amount of interest on money borrowed for acquisition of shares. To service its debts the company had been taking further loans and capitalizing the interest paid.*

*5. The amount of interest paid during the year is not debited to Profit & Loss account probably to escape attention of the assessing authorities and to avoid disallowance u/s 14A read with Rule 8D.*

*6. The accounts of the assessee company have not been drawn properly and in accordance with well laid down accounting standards.”*

Ld. CIT DR submitted that, here in this case even if the dividend income is Rs. 1,34,69,000/-, then same should have been restricted to dividend income if at all the Ld. CIT(A)'s finding is to be followed.

5. First of all on the perusal of material placed on record, it is seen that the assessee has not claimed any interest expenditure in the profit and loss account and once no expenditure has been claimed in the profit and loss account the same could not have been disallowed under section 14A. In the computation of income the assessee has only claimed expenditure of Rs. 5,93,858/- which was disallowed. Thus on these facts we do not find any reason deviate from the findings of the Ld. CIT(A) the same has been confirmed and the appeal of the Revenue is dismissed.

6. In assessment year 2014-15 assessee has challenged the disallowance under section 14A of Rs. 1,20,88,083/- and against this Assessing Officer has worked out disallowance at Rs. 2,77,58,713/- under Rule 8D. The Ld. CIT (A) has restricted disallowance under section 14A to the extent of exempt income. On the perusal of the assessment order it is seen that assessee has incurred interest expense of Rs. 27,73,927/- which has been capitalised and not claimed as an expenditure which Ld. Assessing Officer has held that same should be treated as revenue expenditure. We do not

find any justification by the Assessing Officer to treat the interest expenditure which has not been claimed in the profit and loss account and treat it as revenue expense for the purpose of disallowance under section 14A. Further, Assessing Officer has not given any finding or recorded any satisfaction as to why *suo moto* disallowance of Rs. 1,20,89,893/- made by the assessee for earning of exempt income of Rs. 1,34,69,000/- is not correct having regard to the nature of expenses debited or incurred. The Ld. CIT (A) has simply restricted the disallowance to the exempt income without any even commenting the *suo moto* disallowance of the assessee. Accordingly we do not find any justification in making further disallowance to what has been *suo moto* disallowance made by the assessee. Accordingly grounds raised by the assessee are allowed.

7. In the result, the appeal of the Revenue is dismissed and the appeal of the assessee is allowed.

**Order pronounced in the open court on 26<sup>th</sup> July, 2023.**

**sd/-**  
**(G.S. PANNU)**  
**PRESIDENT**

Dated: 26/07/2023

**Veena**

Copy forwarded to -

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

**sd/-**  
**(AMIT SHUKLA)**  
**JUDICIAL MEMBER**

ASSISTANT REGISTRAR  
ITAT, New Delhi

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr. PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr. PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	