

**IN THE INCOME TAX APPELLATE TRIBUNAL**

**"D" BENCH, MUMBAI**

**BEFORE SHRI G.S. PANNU, PRESIDENT, AND**  
**SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER**

**ITA no.1376/Mum./2023**

**(Assessment Year : 2013-14)**

Dy. Commissioner of Income Tax  
Circle-7(1)(1), Mumbai

..... Appellant

v/s

M/s. Mahan Synthetics Textiles Pvt. Ltd.  
205 214, Peninsula Centre, Currey Road  
Near Piramal Chambers, S.S. Rao Road  
Parel, Mumbai 400 012 PAN - AAACM5960C

.....Respondent

Assessee by : Shri Vipul Jain

Revenue by : Smt. Mahita Nair

Date of Hearing - 12/07/2023

Date of Order - 27/07/2023

**ORDER**

The present appeal has been filed by the Revenue challenging the impugned order dated 04/03/2023, passed under section 250 of the Income Tax Act, 1961 ("*the Act*") by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, [*learned CIT(A)*], for the assessment year 2013-14.

2. In this appeal, the Revenue has raised the following grounds:-

*"1. On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in deleting the disallowance u/s 14A without considering the fact that the assessee has earned exempt income and assessing officer has rightly invoked the section 14A read with rule 8D.*

*2. On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in deleting the disallowance u/s 14A without appreciating the fact*

*that circular no.5/2014 issued by CBDT categorically mandates the disallowance of expenditure for earning exempt income u/s 14A r.w.r. 8D even if the corresponding exempt income has not been earned during the year.*

*3. On the facts and in the circumstances of the case and in law, the CIT(A) is unjustified in restricting the disallowance u/s14A to Rs. 9,55,880/- ignoring the CBDT Circular No.5 of 2014 dated 11.02.2014.*

*4. The learned CIT(A)'s order is contrary in law and on facts and deserves to be set aside.*

*5. The appellant prays that the order of the Id.CIT(A) on the above grounds be set aside and that of the AO be restored. The appellant craves leave to amend or alter any ground or add a new ground that may be necessary at the time of hearing."*

3. The only dispute raised by the Revenue is against the deletion of disallowance under section 14A of the Act.

4. The brief facts of the case as emanating from the record are: The assessee is engaged in the business of investments in shares and securities. For the year under consideration, the assessee filed its return of income on 30/09/2013 declaring a total loss of Rs. 6,12,09,872 as per normal provisions of the Act and declared book loss under section 115JB of the Act of Rs. 5,89,71,529. The return filed by the assessee was selected for scrutiny and statutory notices under section 143(2) as well as section 142(1) of the Act were issued and served on the assessee. During the assessment proceedings, from the perusal of balance sheet it was observed that the assessee is having investment in equity shares of Rs.33,47,29,488. Further, the assessee has shown dividend income from investments in equity shares of Rs.9,55,880, which was claimed as exempt. It was further observed from the computation of income and Form 3CD that the assessee has not disallowed any sum under section 14A of the Act. Accordingly, the assessee was asked to show cause as to why the disallowance under section 14A read with Rule 8D be not made and

added to the total income of the assessee. In response thereto, the assessee submitted that the shares were held in the group concerns only as a passive investment for the purpose of holding a controlling stake and therefore provisions of section 14A of the Act are not applicable. On a without prejudice basis, the assessee submitted that the disallowance be restricted to the total exempt income of Rs.9,55,880. The Assessing Officer ("AO") vide order dated 27/02/2016 passed under section 143(3) of the Act did not agree with the submissions of the assessee and held that all the expenses connected with the exempt income have to be disallowed under section 14A of the Act regardless of whether they are direct or indirect, fixed or variable and managerial or financial. Accordingly, the AO computed the disallowance of Rs. 4,09,09,259 under section 14A read with Rule 8D, and added the same to the total income of the assessee.

5. The learned CIT(A), vide impugned order, restricted the disallowance under section 14A of the Act to the exempt income earned by the assessee and upheld the addition of Rs. 9,55,880 under section 14A of the Act granting relief to the extent of Rs. 3,99,53,379. The relevant findings of the learned CIT(A), vide impugned order, are reproduced as under:-

*"The Hon'ble Punjab & Haryana High Court in the case of Principle CIT vs State Bank of Patila (393 ITR 476) has held that disallowance under section 14A should be restricted to the exempt income earned. The Hon'ble Supreme Court of India in the case of Principle CIT vs. State Bank of Palila Teported as 99 taxmann.com 286 has dismissed the SLP of Revenue in the said case. Similar view has been taken by the Hon'ble Bombay High Court in the case of Principle CIT vs. Ballarpur Industries Ltd. (ITA No. 51/2016) decided on 13.10.2016*

*However, as per law settled by the Hon'ble Apex Court and Hon'ble High Court no addition can be made which is more than the income earned and respectfully following the order of Hon'ble High Court the addition of Rs. 9,55,880/- is hereby confirmed and appellant will get relief of Rs. 3,99,53.379/- These grounds of appeal are partly allowed."*

Being aggrieved, the Revenue is in appeal before us.

6. Having considered the submissions of both sides and perused the material available on record, we find that the learned CIT(A) accepting the contention of the assessee, which was in line with the prevailing jurisprudence, restricted the disallowance under section 14A to the quantum of exempt income earned by the assessee i.e. Rs. 9,55,880. We find that the Hon'ble jurisdictional High Court in Nirved Traders (P.) Ltd. v/s Dy. CIT, I.T. Appeal No.149 of 2017, vide judgement dated 23.04.2019, has held that disallowance under section 14A of the Act cannot be more than exempt income. Thus, we find no infirmity in the impugned order passed by the learned CIT(A). Accordingly, the grounds raised by the Revenue are dismissed.

7. In the result, the appeal by the Revenue is dismissed.

Order pronounced in the open Court on 27/07/2023

**Sd/-**  
**G.S. PANNU**  
**PRESIDENT**

**Sd/-**  
**SANDEEP SINGH KARHAIL**  
**JUDICIAL MEMBER**

**MUMBAI, DATED: 27/07/2023**

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The PCIT / CIT (Judicial);
- (4) The DR, ITAT, Mumbai; and
- (5) Guard file.

*Pradeep J. Chowdhury*  
*Sr. Private Secretary*

True Copy  
By Order

Assistant Registrar  
ITAT, Mumbai