

**IN THE INCOME TAX APPELLATE TRIBUNAL**

**"C" BENCH, MUMBAI**

**BEFORE SHRI G.S. PANNU, PRESIDENT, AND**

**SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER**

**ITA no.1462/Mum./2023**  
(Assessment Year : 2012-13)

**ITA no.1464/Mum./2023**  
(Assessment Year : 2013-14)

**ITA no.1466/Mum./2023**  
(Assessment Year : 2014-15)

**ITA no.1467/Mum./2023**  
(Assessment Year : 2015-16)

Pratik Technologies Pvt. Ltd.  
250, 15<sup>th</sup> Floor, Planet Godrej  
Electra Tower-3, 30, K.K. Marg  
Mahalaxmi, Mumbai 400 011  
PAN – AADCP8419N

..... Appellant

v/s

Dy. Commissioner of Income Tax  
Central Circle-8(2), Mumbai

.....Respondent

Assessee by : Shri Vimal Punamiya  
Revenue by : Shri R.A. Dhyani

Date of Hearing – 13/07/2023

Date of Order – 17/08/2023

**ORDER**

The present appeals have been filed by the assessee challenging the separate impugned orders of even date 10/03/2023, passed under section 250 of the Income Tax Act, 1961 (*"the Act"*) by the learned Commissioner of Income Tax (Appeals)-50, Mumbai, [*"learned CIT(A)"*], for the assessment years 2012-13, 2013-14, 2014-15 and 2015-16.

2. Since the present batch of appeals pertains to the same assessee involving similar issues, therefore, as a matter of convenience, these appeals were heard together and are being disposed off by way of this consolidated order. With the consent of the parties, the appeal for the assessment year

2012-13 is taken up as a lead case and the decision rendered therein shall apply *mutatis mutandis* to other appeals.

**ITA No.1462/Mum./2023**  
**Assessee's Appeal – A.Y. 2012-13**

3. In this appeal, the assessee has raised the following grounds:-

*"1. On the facts and in the circumstances of the case and in law the Commissioner of Income-tax (Appeals)-50 Mumbai has erred in passing the appeal order by confirming addition of Rs. 1,92,512/- under section 14A as calculated r.w.s rule 8 of the income tax act 1961.*

*2. On the facts and in the circumstances of the case and in law the Commissioner of Income-tax (Appeals)-50 Mumbai has erred in rejecting submission of the appellant that it has not incurred any expenditure on invested amount in the subsidiary company as promoters nothing can be disallowed u/s 14A.*

*3. Appellant therefore pray that assessing officer may be directed to delete disallowances expenses of Rs. 1,92,512/- u/s 14A. Even state bank of India already filed personal insolvency case against promoters of appellant.*

*The appellant craves leave to amend, alter or delete any of the above grounds of appeal."*

4. The only dispute raised by the assessee, in the present appeal, is pertaining to disallowance under section 14A read with Rule 8D of the Income Tax Rules, 1962 ("*Rules*").

5. The brief facts of the case pertaining to this issue, as emanating from the record, are: A search and seizure action under section 132 of the Act was carried out on 08/12/2017, on M/s. Trimax IT Infrastructure and Services Limited. The assessee being a shareholder company of the aforesaid entity was also covered under the search and seizure action. Subsequently, the case of the assessee was centralised, and notice under section 153A of the Act was issued to the assessee. In response to the said notice, the assessee filed its

return of income on 22/06/2019, declaring a total income of Rs.1,09,346. During the assessment proceedings, it was observed that the assessee has earned an exempt income of Rs.14,61,840, however, no disallowance was computed under section 14A read with Rule 8D. Accordingly, the assessee was asked to show cause as to why disallowance under section 14A read with Rule 8D, be not made. However, the assessee did not file any response thereto. Accordingly, the Assessing Officer ("AO") vide order dated 11/12/2019, passed under section 153A read with 143(3) of the Act computed the disallowance of Rs.1,92,512, being 0.5% of the average investment of Rs.3,85,02,530, under section 14A read with Rule 8D(2)(iii).

6. Before the learned CIT(A), the assessee submitted that there is no relation between expenditure and investment and that during the year under consideration, it was having revenue from operation and other income of Rs.44,99,006, and expenditure incurred against this income was Rs.29,47,820. The assessee further submitted that the investment was purely investment as a promoter, where it did not incur any expenditure during the year. The learned CIT(A), vide impugned order, dismissed the appeal filed by the assessee and held that it is settled law that the dominant purpose for which the investment into shares is made by the assessee may not be relevant as section 14A apply irrespective of whether the shares are held to gain control. Being aggrieved, the assessee is in appeal before us.

7. We have considered the submissions of both sides and perused the material available on record. During the year under consideration, the assessee earned a dividend income of Rs.14,61,840, from its investment of

Rs.3,85,02,530, in M/s. Trimax IT Infrastructure and Services Limited. As per the assessee, it is a promoter of the aforesaid entity and therefore incurred no expenditure for earning the dividend income. Reiterating its submissions as were made before the lower authorities, it was submitted that during the year the assessee earned revenue from operation and other income of Rs.44,99,006, while against this income it incurred an expenditure of Rs.29,47,820. It was further submitted that the said expenditure includes service charges, director remuneration, audit fees, interest payment, professional charges, office expenses, and conveyance expenses. Thus, it was submitted that no expenditure was incurred for earning the dividend income of Rs.14,61,840, during the year.

8. We find that in Maxopp Investment Ltd. v/s CIT, [2018] 402 ITR 640 (SC) the Hon'ble Supreme Court held that the dominant purpose for which the investment into shares is made may not be relevant for applicability of section 14A of the Act. Therefore, we find no merit in the submission of the assessee that the investment in M/s Trimax IT Infrastructure and Services Limited was held by it as a promoter since the purpose of holding the investment is immaterial for section 14A of the Act. Further, in Godrej & Boyce Manufacturing Company Ltd. v/s DCIT [2017] 81 taxmann.com 111 (SC), the Hon'ble Supreme Court observed as under:-

*"37. .... what the law postulates is the requirement of a satisfaction in the Assessing Officer that having regard to the accounts of the assessee, as placed before him, it is not possible to generate the requisite satisfaction with regard to the correctness of the claim of the assessee. It is only thereafter that the provisions of Section 14A(2) and (3) read with Rule 8D of the Rules or a best judgment determination, as earlier prevailing, would become applicable."*

9. From the perusal of the record, it is evident that the assessee did not make any suo-moto disallowance under section 14A read with Rule 8D during the year for earning the dividend income. From the financial statement of the assessee, we find that the assessee has debited administrative expenses of Rs.16,35,320, which includes remuneration of Rs.15 lakh, to the directors. Accordingly, on the basis of aforesaid facts, the AO came to the conclusion that the decision of investment is taken by the directors, so there is nexus of these remuneration expenses with the earning of exempt income since for management of earning exempt income, administration cost is needed. Therefore, it is evident that since after having regard to the accounts of the assessee, the AO was not satisfied with the claim of the assessee, disallowance under section 14A read with Rule 8D was computed. We find the action of the AO in computing the disallowance under section 14A read with Rule 8D to be in conformity with the law laid down by the Hon'ble Supreme Court in the aforesaid decisions.

10. Further, it is undisputed that the AO has not computed any disallowance under Rule 8D(2)(i) and Rule 8D(2)(ii) of the Rules and only under Rule 8D(2)(iii) of the Rules expenditure in relation to income which does not form part of the total income was computed in the present case. It is pertinent to note that Rule 8D(2)(iii) of the Rules provides a computation mechanism whereby 0.5% of the average of the value of investment, income from which does not form part of the total income, as appearing in the balance sheet on the first and last day of the previous year is considered as the expenditure for the purpose of section 14A of the Act. Accordingly, the AO computed disallowance of Rs.1,92,512, being 0.5% of Rs.3,85,02,530, (i.e. investment

made by the assessee in M/s Trimax IT Infrastructure and Services Limited) under section 14A read with Rule 8D. Therefore, in view of the above, we find no infirmity in the impugned order upholding the disallowance under section 14A read with Rule 8D(2)(iii). Accordingly, the impugned order is upheld and the grounds raised by the assessee are dismissed.

11. In the result, the appeal by the assessee is dismissed.

**ITA No.1464/Mum./2023**  
**Assessee's Appeal – A.Y. 2013-14**

12. In this appeal, the assessee has raised the following grounds:-

*"1. On the facts and in the circumstances of the case and in law the Commissioner of Income-tax (Appeals)-50 Mumbai has erred in passing the appeal order by confirming of addition of Rs.1,92,512/- under section 14A as calculated r.w.s rule 8 of the income tax act 1961.*

*2. On the facts and in the circumstances of the case and in law the Commissioner of Income-tax (Appeals)-50 Mumbai has erred in rejecting submission of the appellant that it has not incurred any expenditure on invested amount in the subsidiary company as promoters nothing can be disallowed u/s 14A.*

*3. Appellant therefore pray that assessing officer may be directed to delete disallowances expenses of Rs.1,92,512/- u/s 14A. Even state bank of India already filed personal insolvency case against promoters of appellant.*

*The appellant craves leave to amend, alter or delete any of the above grounds of appeal."*

13. The only dispute raised by the assessee, in the present appeal, is pertaining to disallowance under section 14A read with Rule 8D.

14. We find that in the assessment year 2013-14 also, the disallowance under section 14A read with Rule 8D(2)(iii) was computed by the AO on a similar basis as in the assessment year 2012-13. We further find that the learned CIT(A), vide impugned order, after noting that material facts on this

issue are identical/similar to the assessment year 2012-13 except with a variation of figures, dismissed the appeal filed by the assessee following its findings rendered in the assessment year 2012-13.

15. Therefore, in view of the above, since a similar issue has been decided in assessee's appeal for the assessment year 2012-13, the decision rendered therein shall apply *mutatis mutandis*. Accordingly, the impugned order is upheld and the grounds raised by the assessee are dismissed.

16. In the result, the appeal by the assessee is dismissed.

**ITA No.1466/Mum./2023**  
**Assessee's Appeal – A.Y. 2014-15**

17. In this appeal, the assessee has raised the following grounds:-

*"1. On the facts and in the circumstances of the case and in law the Commissioner of Income-tax (Appeals)-50 Mumbai has erred in passing the appeal order by confirming of addition of Rs.1,87,621/- under section 14A as calculated r.w.s rule 8 of the Income Tax Act 1961.*

*2. On the facts and in the circumstances of the case and in law the Commissioner of Income-tax (Appeals)-50 Mumbai has erred in rejecting submission of the appellant that it has not incurred any expenditure on invested amount in the subsidiary company as promoters nothing can be disallowed u/s 14A.*

*3. On the facts and in the circumstances of the case and in law the Commissioner of Income-tax (Appeals)-50 Mumbai has erred in rejecting the carried forward long term loss of Rs.6,27,410/- without giving justifiable proper reasons.*

*4. Appellant therefore pray that assessing officer may be directed to delete disallowances expenses of Rs.1,87,621/- u/s 14A and allow Rs.6,27,410/- long term capital loss to be carried forward. Even state bank of India already filed personal insolvency case against promoters of appellant.*

*The appellant craves leave to amend, alter or delete any of the above grounds of appeal."*

18. The issue arising in grounds no. 1 and 2, raised in assessee's appeal, is pertaining to disallowance under section 14A, read with Rule 8D(2)(iii). We find that basis of computation of aforesaid disallowance and submissions of both sides are similar to the assessment year 2012-13. We further find that the learned CIT(A) following its findings rendered in the assessment year 2012-13 dismissed the ground raised by the assessee on this issue upon finding the material facts to be identical/similar except with variance in figures. Therefore, since a similar issue has been decided in assessee's appeal for the assessment year 2012-13, the decision rendered therein shall apply *mutatis mutandis*. Accordingly, the impugned order on this issue is upheld and grounds no. 1 and 2, raised in assessee's appeal are dismissed.

19. The issue arising in ground no. 3, raised in assessee's appeal, is pertaining to the disallowance of long-term capital loss and carry forward of same.

20. The brief facts pertaining to this issue are that during the year under consideration, the assessee claimed long-term capital loss of Rs.6,27,410, on the sale of private equity of Prestige Multi Trade Private Limited. During the assessment proceedings, the details of the same were sought from the assessee. However, except working of the computation of such loss no other details like the name and address of the purchase party were furnished by the assessee. Accordingly, the AO vide order dated 11/12/2019, passed under section 153A read with section 143(3) of the Act disallowed the long-term capital loss claim by the assessee and consequently not allowed the same to be carried forward. Even during the appellate proceedings before the learned

CIT(A), the assessee did not furnish any material to substantiate the claim of long-term capital loss. Accordingly, the learned CIT(A) upheld the disallowance of long-term capital loss claimed by the assessee. Being aggrieved, the assessee is in appeal before us.

21. We have considered the submissions of both sides and perused the material available on record. From the perusal of the financials of the assessee, forming part of the paper book from pages 7-25, we find that the total investment was reduced to Rs.3,65,46,000, as on 31/03/2014, from Rs.4,16,02,420, as on 31/03/2013. We find that during the year the investment in Prestige Multi Trade Pvt. Ltd. was reduced to Nil as the said investment was sold during the financial year 2013-14. Apart from the above details, no other information is available on record. We find that the investment in Prestige Multi Trade Pvt. Ltd. was continuing from the previous financial year and there is no material available on record to show that the same was disputed by the Revenue. Therefore, in view of the above, we deem it appropriate to grant one more opportunity to the assessee in the interest of justice to produce the material, as required by the lower authorities, to substantiate its claim of long-term capital loss on the sale of investment in Prestige Multi Trade Private Ltd. Accordingly, we restore this issue to the file of the AO for *de novo* adjudication. Further, the assessee is directed to furnish the documents in support of its aforesaid claim. Needless to mention that no order shall be passed without affording reasonable opportunity of being heard to the assessee. Accordingly, the impugned order passed by the learned CIT(A) on this issue is set aside, and ground no. 3 raised in assessee's appeal is allowed for statistical purposes.

22. Ground No. 4, raised in assessee's appeal is general in nature and therefore, needs no separate adjudication.

23. In the result, the appeal by the assessee is partly allowed for statistical purposes.

**ITA No.1467/Mum./2023**  
**Assessee's Appeal – A.Y. 2015-16**

24. In this appeal, the assessee has raised the following grounds:-

*"1. On the facts and in the circumstances of the case and in law the Commissioner of Income-tax (Appeals)-50 Mumbai has erred in passing the appeal order by confirming of disallowances of bad debts of Rs. 2,22,961/- u/s 36(2)(1) of the income tax Act.*

*2. The earned CIT has erred in confirming disallowing bad debts, not considering that as this bad debts amounts is part of unrecovered sales outstanding which has been shown as income in earlier years in books of accounts.*

*3. Appellant therefore pray that assessing officer may be directed to delete disallowances bad debts of Rs.2,22,961/- u/s 36(2)(1) of the income tax Act. Even state bank of India already filed personal insolvency case against promoters of appellant.*

*The appellant craves leave to amend, alter or delete any of the above grounds of appeal."*

25. The only dispute raised by the assessee, in the present appeal, is pertaining to the disallowance of bad debts of Rs.2,22,961.

26. The brief facts of the case pertaining to this issue are that in the year under consideration, the assessee claimed sundry balances written off of Rs.2,22,961, in its profit and loss account under the head of other expenses. Accordingly, during the assessment proceedings, the assessee was asked to submit the ledger account of said parties and to submit the details when these

amounts were offered as income. However, in the absence of details, the AO vide order dated 11/12/2019, passed under section 153A read with section 143(3) of the Act rejected the claim of sundry balance written off as the requirement of section 36(2)(i) of the Act was not fulfilled by the assessee. Even before the learned CIT(A), no details were furnished by the assessee. Accordingly, the learned CIT(A) upheld the disallowance of sundry balance written off under section 36(2)(i) of the Act. Being aggrieved, the assessee is in appeal before us.

27. We have considered the submissions of both sides and perused the material available on record. In the paper book filed by the assessee, the breakup of sundry balances written off of Rs.2,22,961, is furnished on page 42. From the said details we find that Rs.2,17,561, is in respect of an entity Spanco Telesystems and Solutions Limited. The assessee has also furnished a copy of the ledger of Spanco Telesystems and Solutions Ltd. in its books to show the receipt of payment from the aforesaid entity and sundry balance of Rs.2,17,577. It is evident from the record that these details were not furnished before the lower authorities. Accordingly, we deem it appropriate to restore this issue to the file of the AO for *de novo* adjudication after examining the details as furnished by the assessee. Since the sundry balances written off were disallowed under section 36(2)(i) of the Act, the assessee is directed to furnish further details that the said amount was offered as income in previous years. Accordingly, the impugned order passed by the learned CIT(A) on this issue is set aside and grounds raised by the assessee are allowed for statistical purposes.

28. In the result, the appeal by the assessee is allowed for statistical purposes.

29. To sum up, assessee's appeal for the assessment years 2012-13 and 2013-14 are dismissed. The appeal for the assessment year 2014-15 is partly allowed for statistical purposes, while the appeal for the assessment year 2015-16 is allowed for statistical purposes.

Order pronounced in the open Court on 17/08/2023

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

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

**MUMBAI, DATED: 17/08/2023**

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