

**IN THE INCOME TAX APPELLATE TRIBUNAL  
JABALPUR BENCH 'DB', JABALPUR**

**Before Dr. B. R. R. Kumar, Accountant Member**

**Sh. Yogesh Kumar US, Judicial Member**

**ITA No. 226/JAB/2016 : Asstt. Year: 2009-10**

Rashmeet Singh Malhotara Prop M/s Malhota Brothers, Nehru Ward, Pipariya Dist: Hoshangabad-461775 (MP)	Vs	Income Tax Officer, Ward-1, Itarsi, Dist: Hoshangabad (MP)
(APPELLANT)		(RESPONDENT)
<b>PAN No. ABJPM 6167 G</b>		

**Assessee by : Sh. K.P Dewani, Adv.  
Sh. B K Nema, Adv.**

**Revenue by : Sh. Ravi Mehrotra, JCIT-DR**

<b>Date of Hearing: 29.11.2023</b>	<b>Date of Pronouncement: 30.11.2023</b>
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**ORDER**

**Per Dr. B. R. R. Kumar, Accountant Member:**

The present appeal has been filed by assessee against the order of Id. CIT(A)-31, New Delhi, Camp Bhopal dated 01.07.2016.

2. The assessee has raised the following grounds of appeal are as under:-

*1. On the facts and in the circumstances of the case the assessment completed under section 143(3) on 28/12/2011 is illegal and bad in law and hence deserves to be quashed.*

*2. On the facts and in the circumstances of the case, the Ld. Commissioner of Income tax (Appeals)- erred and is totally unjustified in holding that the provisions of Section 14A of the Income Tax Act, 1961 read with Rule 8D of the Income Tax Rules 1962 are attracted and were rightly invoked by the Assessing Officer in the instant case for the assessment year under consideration which findings and decision of the Ld.CIT(A) on the point at issue are contrary to the provisions of Law and, hence, deserves to be reversed in the interest of justice.*

*3. On the facts and in the circumstances of the case, the Ld.CIT(A) erred and is not justified In confirming the addition/disallowance of Rs.3,79,043/- made by the Assessing Officer under section 14A read with Rule 8D of the Income Tax Rules, 1962. The same may be deleted in toto in the interest of justice.*

*4. On the facts and in the circumstances of the case the Ld.CIT (A) erred and is totally unjustified in confirming the addition/disallowance of Rs.14,16,175/- from the short term capital loss on the ground and reason that the assessee/appellant has not furnished any details or justification for the same, while the A.O had disallowed/added the same on the ground/reason that the claim is not in accordance with the provisions of the Act. The claim in question be allowed in the interest of justice.*

*5. On the facts and in the circumstances of the case, the Ld. CIT (A) erred and is unjustified in confirming the disallowance of Rs. 50,000/- made by the A.O. without highlighting as to how and to what extent element of personal user is involved in shop expenses of Rs.53,245/-, generator expenses of Rs.1,51,258/- as also in travelling and conveyance expenses of Rs.1,33,697/- when these are incurred exclusively for business. The disallowance being arbitrary and excessive be deleted or suitably reduced in the interest of justice.*

### **Disallowance u/s. 14A:**

3. Having perused entire record, we find that the assessee has earned and dividend income which is exempt of Rs. 1.4 lakhs. The Assessing Officer disallowed of Rs. 3.79 lakhs out of which of Rs. 2.63 lakhs was on account of interest. The assessee is having own capital of Rs. 76.52 lakhs and interest free unsecured loans of Rs. 159.50 lakhs and has not paid any interest on account of the investment of Rs. 1.51 crores made in the shares and mutual fund.

4. Hence, keeping in view the fact that the assessee has an interest income of Rs. 1.6 lakhs only, we deem it justifiable to if an amount of Rs. 6,000/- is disallowed on account of the expenses incurred for earning an exempt income.

**Disallowance of interest – Short term capital loss:**

5. The issue pertains to computation of short term capital gain /loss incurred by the assessee. The AO is directed to re-compute the short term capital loss take into consideration the cost of acquisition, expenditure incurred wholly and exclusively in connection with transfer of capital asset and sale price in accordance to the provision of Section 48 of the I.T Act.

**Adhoc disallowance:**

6. The AO has observed that assessee has claimed shop expenses, telephone expenses, mobile expenses, travelling and conveyance expenses, generator expenses and repair and maintenance expenses. A.O. has made adhoc addition of Rs.50,000/- by observing that the personal element in above said expenses cannot be ruled out. Assessee has maintained regular books of account which are audited by Chartered Accountant. Claim in respect of various expenses is verifiable with the books of account and vouchers produced in the course of assessment proceedings which has been explained from time to time. The turnover of assessee is Rs.17.29 crores. The claim of expenses as discussed in assessment order is reasonable expenditure and in no manner of consideration it can be considered as excessive or unreasonable. The AO has not found the claim of assessee to be excessive or unreasonable. In absence of expenditure being excessive or unreasonable no adhoc addition ought to have been made at the hands of assessee. The AO has not found any single item of expenditure to be in nature of not allowable business expenditure. The expenditure incurred is allowable business expenditure and has

been recorded in books of account on day to day basis. The books of account of assessee have been accepted and not rejected as income has been determined on the basis of books of account of assessee in assessment framed. In view of above, adhoc disallowance of expenditure is unjustified and directed to be deleted.

7. In the result, the appeal of the assessee is allowed.

Order Pronounced in the Open Court on 30/11/2023.

**Sd/-**  
**(Yogesh Kumar U.S)**  
**Judicial Member**

**Sd/-**  
**(Dr. B. R. R. Kumar)**  
**Accountant Member**

**Jabalpur Dated: 30/11/2023**

\*NV, Sr. PS\*

Copy forwarded to:

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

**ASSISTANT REGISTRAR**  
**ITAT JABALPUR**