

IN THE INCOME TAX APPELLATE TRIBUNAL “B” BENCH, MUMBAI

**BEFORE SHRI OM PRAKASH KANT, AM AND
MS. KAVITHA RAJAGOPAL, JM**

ITA No. 3340/Mum/2018
(Assessment Year: 2013-14)

DCIT-3(2)(2) Room No. 674, 6 th Floor Aayakar Bhavan, M. K. Road, Mumbai-400 020	Vs.	Nippon Investment & Finance Company Pvt. Ltd. 171, Mittal Court, C-Wing, 17 th Floor, Nariman Point, Mumbai-400 020
PAN/GIR No. AABCN 1023 E		
(Appellant)	:	(Respondent)
Assessee by	:	None
Revenue by	:	Shri Mahesh Akhade
Date of Hearing	:	31.05.2023
Date of Pronouncement	:	31.05.2023

ORDER

Per Kavitha Rajagopal, J M:

This appeal has been filed by the Revenue, challenging the order of the learned Commissioner of Income Tax (Appeals) ('Id.CIT(A) for short), National Faceless Appeal Centre ('NFAC' for short) u/s.250 of the Income Tax Act, 1961 ('the Act'), pertaining to the Assessment Year ('A.Y.' for short) 2013-14.

2. The Revenue has challenged the various grounds pertaining to the deletion of the disallowance made u/s. 14A read with Rule 8D of the Act.

3. The brief facts of the case are that the assessee is engaged in the business of trading in property and shares. The assessee filed its return of income dated 29.09.2013, declaring total loss at Rs.134,07,36,412/-. The assessee's case was selected for scrutiny and the assessment order dated 26.02.2016 was passed by the A.O. u/s. 143(3) of the Act, determining the total loss at Rs.112,99,81,114/- by making disallowance u/s. 14A read

with Rule 8D of the Act, amounting to Rs.21,07,55,298/- along with the other additions/disallowance.

4. Aggrieved by the said order, the assessee was in appeal before the Id. CIT(A) who deleted the impugned addition/disallowance made u/s. 14A read with Rule 8D(2) of the Act.

5. The Revenue is in appeal before us challenging the impugned order of the Id. CIT(A).

6. During the appellate proceeding, it is observed that the assessee company was going through the insolvency proceeding before the Hon'ble National Company Law Tribunal, Mumbai Bench and on perusal of the order dated 18.02.2019 passed by the Hon'ble NCLT it is observed that the assessee company is going through the resolution process as per the provision of section 14 of the Insolvency and Bankruptcy Code, 2016. The learned Departmental Representative (Id. DR for short) for the Revenue has nothing to controvert the said fact. Hence, we are inclined to dismiss this appeal with the liberty given to the Revenue to restore the appeal after the moratorium period.

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

Order pronounced in the open court on 31.05.2023

Sd/-

sd/-

(Om Prakash Kant)
Accountant Member

(Kavitha Rajagopal)
Judicial Member

Mumbai; Dated : 31.05.2023
Roshani, Sr. PS

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. CIT - concerned
4. DR, ITAT, Mumbai
5. Guard File

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai