

**IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH: BANGALORE**

**BEFORE SHRI GEORGE GEORGE K., VICE PRESIDENT
AND
SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER**

ITA No.906/Bang/2023
Assessment Year: 2014-15

Ms. Ambika Ghorpade Karthikeya Nivas Krutika Farm Ward No.1 Dawalanthpur road Sandur 583 119 Karnataka PAN NO.AAVPG1908N	Vs.	ACIT Circle-1 Bellary
ASSESSEE		RESPONDENT

Assessee by	:	Shri K.R. Pradeep & Ms. Girija G., A.Rs
Revenue by	:	Shri Subramanian S., D.R.

Date of Hearing	:	17.01.2024
Date of Pronouncement	:	17.01.2024

O R D E R

PER CHANDRA POOJARI, ACCOUNTANT MEMBER:

This appeal by assessee is directed against order of NFAC for the assessment year 2014-15 dated 10.10.2023 passed u/s 250 of the Income Tax Act, 1961 (in short “The Act”).

2. The first ground for our consideration is with regard to disallowance u/s 14A read with Rule 8D of the Income Tax Rules, 1962.

2.1 The ld. A.R. submitted that the assessee has earned exempt income to the tune of Rs.31,600/- only by way of dividend. As such, the disallowance made u/s 14A of the Act at Rs.4,05,636/- is unjustifiable and same to be deleted.

3. We have heard the rival submissions and perused the materials available on record. In this case, the exempt income is only Rs.31,600/- by way of dividend and the disallowance u/s 14A read with Rule 8D of the Rules cannot exceed the exempt income earned by assessee in the assessment year under consideration as held by Hon'ble Karnataka High Court in the case of Biocon Ltd. Vs. DCIT reported in 431 ITR 326 (Karn.) wherein it was held that "when there is no exempted income, there cannot be any disallowance u/s 14A of the Act. In other words, it means that disallowance u/s 14A of the Act should be limited to the exempted income". Accordingly, we sustain the addition to the tune of Rs.31,600/- only up to the exempt income earned by the assessee. This ground of assessee is partly allowed.

4. Next ground in this appeal is with regard to disallowance of following expenses incurred by assessee u/s 37(1) of the Act:

- | | | |
|-----------------------------------|---|---------------|
| a) Entertainment expenses | - | Rs.29,306/- |
| b) Repairs & Maintenance expenses | - | Rs.4,65,822/- |
| c) Travelling expenses | - | Rs.5,26,795/- |

4.1 In the assessment year under consideration, these expenses were disallowed by AO on the reason that the assessee is engaged in Mining activities, which is not categorized as "C" Category and in the assessment year under consideration assessee was not permitted to carry on Mining operation. According to ld. AO, assessee has not incurred expenditure wholly and exclusively for the purpose of business. However, the NFAC noted that assessee has not substantiated its expenditure and disallowed the same and the same has been confirmed by the NFAC.

4.2 Before us, ld. A.R. submitted that due to non-permission by the Government, assessee has not carried on mining business in the assessment year under consideration. However, the assessee has continued to be in business and required to incur this expenditure. Further, it was submitted that observation of the NFAC that assessee

has not substantiated this expenditure is not correct. Assessee's books of accounts were duly audited, which was not rejected by the ld. AO and he has disallowed expenditure on the premise that assessee's business has been closed in the assessment year under consideration.

4.3 The ld. D.R. submitted that assessee has failed to substantiate the expenditure as incurred wholly and exclusively for the purpose of business. Hence, the NFAC has disallowed the expenditure and the same to be confirmed.

5. We have heard the rival submissions and perused the materials available on record. In this case, NFAC has no dispute regarding incurring of expenditure. However, it has been disallowed by NFAC on the reason that assessee has not substantiated the expenses. In our opinion, it is appropriate to remit the issue to the file of AO with a direction to the assessee to substantiate the incurring of this expenditure by producing relevant bills, vouchers & receipts. Accordingly, the issue in dispute is remitted back to the file of ld. AO for fresh consideration.

6. In the result, appeal of the assessee is partly allowed for statistical purposes.

Order pronounced in the open court on 17th Jan, 2024

Sd/-
(George George K.)
Vice President

Sd/-
(Chandra Poojari)
Accountant Member

Bangalore,
Dated 17th Jan, 2024.
VG/SPS

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The DR, ITAT, Bangalore.
5. Guard file

By order

**Asst. Registrar,
ITAT, Bangalore.**