आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई।

IN THE INCOME TAX APPELLATE TRIBUNAL
'D' BENCH: CHENNAI

श्री एबी टी. वर्की, न्यायिक सदस्य एवं श्री अमिताभ शुक्ला, लेखा सदस्य के समक्ष

BEFORE SHRI ABY T VARKEY, JUDICIAL MEMBER AND
SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER

आयकर अपील सं./**IT(TP) No.7/Chny/2021, Assessment Year-2013-14**

आयकर अपील सं./ **IT(TP) No.8/Chny/2021, Assessment Year-2014-15**

आयकर अपील सं./ **IT(TP) No.9/Chny/2021, Assessment Year-2015-16**

आयकर अपील सं./ **ITA No.326/Chny/2021, Assessment Year-2016-17**

The Assistant Commissioner of Income Tax, **Corporate Circle-3(2)** **Chennai**	**M/s. V.A Tech Wabag Limited,** **No.17, WABAG House,** **200 Feet Radial Road,** **Sunnambukolathur,** **Chennai – 600 006.** **[PAN: AABCV0225G]**
(अपीलार्थी/Appellant)	**(प्रत्यर्थी/Respondent)**

अपीलार्थी की ओर से/ Appellant by : Shri Ramesh Kutty, Advocate

प्रत्यर्थी की ओर से /Respondent by : Ms. C. Vatchala, CIT

सुनवाई की तारीख/Date of Hearing : 27.08.2024

घोषणा की तारीख /Date of Pronouncement : 16.10.2024

आदेश / O R D E R

AMITABH SHUKLA, A.M :

S. No.	Appeal Nos.	AYs	Appel-lant	CIT(A) Order Details	Respondent	Delay in filing appeal
A	B	C	D	E	F	G
1	IT(TP)-7 / Chny/2021	2013-14	ACIT, CC-3(2), Chennai	DIN No.ITBA / APL / M / 250 / 2020-21 / 1029389607 (1) dt.31.12.2020	M/s. V.A Tech Wabag Limited,	4 days
2	IT(TP)-8 / Chny/2021	2014-15		DIN No.ITBA / APL / M / 250 / 2020-21 / 1029389231 (1) dt.31.12.2020		4 days
3	IT(TP)-9 / Chny/2021	2015-16		DIN No.ITBA / APL / M / 250 / 2020-21 / 1029389414 (1) dt.31.12.2020		4 days
4	IT(TP)-326 /Chny/2021	2016-17		DIN No.ITBA / APL / M / 250 / 2020-21 / 1031510911 (1) dt.16.03.2021		3 months

2.0 In all the above appeals for AYs 2013-14 to 2016-17, the Revenue has contested the orders of the Ld. CIT(A) according relief to the assesse qua assessment orders passed u/s 143(3) by the Ld. AO. It is seen that some of the appeals for the AYs 2013-14, 2014-15, 2015-16 and 2016-17 are having common grounds and it is an admitted position that if the facts as well as issues of the case are identical in all the appeals than adjudication in anyone appeal shall apply to all the other appeals also, on mutatis mutandis basis.

3.0 It is seen from records that there are delays of short periods as indicated in Column-G of the chart herein above. The Ld. DR requested that the short delays had occurred on account of preoccupation in some other works and time consumed in preparation of appeal papers and the same was not intentional. As regards delay for AY-2016-17 the Ld. DR cited reference to the Hon'ble Apex Court order in WP (Civil) No.3/ 2020 dated 08.03.2021 mandating extension of timelines on account of Covid-19. The Ld. Counsel for the assesse did not contest Revenue's pleadings on this account. Having heard the Ld. DR and examined the material on records we find that there is sufficient force in the assesse's arguments. The delay in filing the appeals are therefore condoned and the appeals are being adjudicated as under.

4.0 Brief factual matrix of the case is that the assesse company is engaged in the business of processing of water and waste water treatment having overseas businesses also. It is engaged in business of design development, manufacture, sale, erection and commissioning of water treatment and sewerage plants on a turnkey basis.

5.0 The first issue that has been challenged by the revenue for AY-2013-14, 2015-16 and 2016-17 is in respect of action of the Ld. CIT(A) in deleting the disallowance made by the Ld. AO in respect of provision for warranty. While adjudicating the matter AY-2013-14 is taken as lead year and the figures for that year are considered accordingly.

6.0 The Ld. Counsel for the assesse submitted that the assesse had made a claim for provision of warranty amounting to Rs.33.24 Crs. The net increase for provision in warranty during the previous years was noted at Rs.17.54 Lakhs. Before the Ld. AO the assesse had submitted that in its line of business of water treatment and sewerage plants on a turnkey basis it is required to give a warranty as per specific contracts executed with clients varying from 2 – 3 years in which it maintains the plant and attends to any repairs free of cost. Warranty commitments were integral part of the sale price. It was submitted that the warranty

provisions need to be recognized because the appellant had present obligations as a result of past events. The Ld. AO relied upon Hon'ble Apex Court's decision in the case of Rotork India Pvt Ltd 314 ITR 62 mandating that provision of warranty is a permitted expenditure only if based upon a scientific working. The Ld. AO did not concur with the assesse's submissions and made addition of Rs.17,53,70,580/- . The Ld. Counsel further submitted that the Ld. First Appellate Authority deleted the addition after comprehensively examining the commercial viability for warranty expenses as well as relying upon a catena of decisions including one in the case of 314 ITR 62 Supra. Before us the Ld. Counsel for the assesse reiterated the submissions made before the Ld. CIT(A) viz vide ITA No.137 in assesse's own case for AY-2012-13 the Ld. First Appellate Authority and also submitted that the DRP Chennai for AY-2010-11 had held that provisions for warranty are allowable business expenditure. Additionally, the Ld. Counsel for the assesse invited our attention to the decision of Coordinate Bench of this tribunal in ITA No.953 / Chny / 2015 in assesse's own case holding that the provision for royalty are an allowable business expenditure. The Ld. DR would like to make us believe in the merits of the addition made by the Ld. AO and submitted and that the decision of the CIT(A) is unwarranted.

7.0 We have heard rival submissions in the light of material available on records. We subscribe to the view that warranty is an integral part of a sale transaction. It primarily entails a quality assurance from a seller to the prospective buyer with a promise that in the event of any repair or after sales intervention the promised warranty obligations would step in. As regards creation of provisions for warranty the same are created because of inherent difficulty in objectively and precisely estimating as to how much warranty commitments would be invoked by buyers. Here comes the role of adopting a scientific and verified method for creating provisions as has been postulated in the decision of Hon'ble Apex Court in 314 ITR 62 Supra. Thus commercial expediency of allowing warranty including its scientifically calculated provisions is well recognized. We have also taken note of the decision of the Coordinate Bench of this Tribunal in ITA No.953 / Chny / 2015 in assesse's own case holding as under:-

> *"..... We have heard the rival contentions, perused the materials available on record. We noted the fact that the assessee is engaged in the business of design, develop, manufacture, sale, erection and commissioning of water treatment and sewerage plant. After completion of each and every project there will be a warranty period as per contract executed by the assessee with the client which may vary from two to three years. During this warranty period the assessee needs to maintain the plant and needs to replace the defective component at free of cost. The warranty became an integral part of the sale price and in other words the warranty stood attached to the sale price of the product. The Warranty provision had to be recognized because the assessee had a present obligation as a result of past events resulting in an outflow of resources and a reliable estimate could be made of the amount of the obligation. The assessee is being in the business of design, develop,*

execute, sale, erection and commissioning of water treatment and sewerage plant made a provision of warranty based scientific methods of accounting adopted by the assessee. This also depends upon historical trend and other related facts. The assessee has a contractual obligation to maintain the plant for a minimum period of two to three years depending upon the agreement and during this period the assessee has to freely replace the components if they became defective. This issue is settled by Hon'ble Supreme Court in the case of Rotok India Put. Ltd. (Supra), wherein it was held that warranty became an integral part of sale price, in other words, the warrant stood attached to the sale price of the product. Warranty provision had to be recognized because, the assessee had a present obligation as a result of past events resulting in an outflow of resources and a reliable estimate could be made of the amount of obligation. The value of contingent liability like warranty expenses, if properly ascertained and discounted on accrual basis, can be an item of deduction U/s.37 of the Act. Since the assessee estimated the warranty and made a provision on a scientific basis the assessee is eligible to claim as revenue expenditure. Furthermore, the assessee reverses any excess provision made in the earlier year(s) and hence, it is clear from this that there is no excess claim by the assessee with regard to warranty. Hence we find no infirmity in the claim of assessee and the same has rightly been allowed by DRP. We uphold the same.

20. Similar issue for provision for warranty is raised by assessee in its appeal in ITA No.807/CHNY/2016 for assessment year 2011-12 and the facts are exactly identical in this year also what was in assessment year 2010-11 in ITA No.953/CHNY/2015, taking a consistent view, we allow the provision for warranty in this year also. This issue of assessee's appeal is allowed…."

8.0 We have noted that the facts of the present case are identical to those in the above referred decision and no distinction has been made by the revenue. Therefore, in respectful compliance to the decision of Coordinate Bench of this Tribunal Supra, we hereby hold that the provisions for royalty are allowable business expenditure. Accordingly, we confirm the order of the Ld. CIT(A) in respect of deletion of addition of Rs.17,53,70,580/- on account of provision of warranty and dismiss the grounds of appeal raised by the revenue for AY-2013-14.

9.0 As regards ITA No. IT(TP)-9 / Chny/2021 for AY-2015-16 identical grounds of appeal have been raised by the revenue. No changes, save variations in figures, in facts of the case have been reported. Accordingly the decision in AY-2013-14 Supra shall apply mutatis mutandis. In the result we dismiss the grounds of appeal raised by the revenue for AY-2015-16 also.

10.0 The next issue that has been raised by the revenue for AY-2013-14, 2014-15, 2015-16 and 2016-17 is in respect of action of the Ld. CIT(A) in deleting the disallowance made by the Ld. AO in respect of consultant marketing fees(Overseas) made u/s 40(a)(ia). The facts of all the four years have been reported to be identical and hence for the purpose of this adjudication we take AY-13-14 as the lead year. Conveying brief facts of the case, the Ld. Counsel for the assesse informed that there was a survey u/s 133A on 27.07.2014 upon the assesse. It transpired therefrom that the assesse had paid consultancy fees to non-resident parities without TDS deduction u/s 40(a)(ia). Before the Ld. AO, the assesse pleaded that the impugned expenses did not warrant TDS deduction u/s 40(a)(ia) as the services were rendered outside India for assesse's overseas projects and the parties are all stationed outside India with no local office etc. The assesse also gave details of services reportedly given by the said non-resident parties. The

Ld. AO however rejected the contentions by relying upon explanation-2 to section 9(1)(vii) and treated the same as fee for technical services which mandated prior deduction of TDS. The Ld. AO particularly invoked the amendment of section -9 of the income tax act made by Finance " Act -2010 which postulated that whether or not the non-resident is in India will be immaterial if the fees are paid for technical services, inter-alia, comprising managerial, technical or consultancy services. Ld. Counsel for the assesse informed that consequently the Ld. AO proceed to make an addition of Rs.7,98,23,850/-. He submitted that the Ld. First Appellate Authority has rightly deleted the addition on the premise that Ld. AO could not establish rendering of services in India as well as rejecting hypothesis of application of section-9(1) to the assesse's case. Consequently the Ld.CIT(A) applying the ratio of this tribunal in ITA 2169, ITA 6148 as well as decision of DRP in assesse's own case for AY-2010-11 deleted the addition. During the course of present proceeding, the Ld. AR invited our attention to the decision of the Coordinate Bench of this Tribunal in ITA No.953 / Chny / 2015 in assesse's own case for AY-2010-11 whereby the issue has been restored back to the file of Ld. AO for readjudication of the matter after proper verification of facts of the case. The Ld. DR held the view that the addition made by the Ld. AO is based upon correct understanding of law.

11.0 We have heard rival submissions in the light of material available on records. The decision of the coordinate bench of this tribunal in assesse's own case for AY-2010-11 vide ITA No.953 / Chny / 2015 has been found to be having a direct bearing on the impugned controversy and hence is being considered. In the said case Hon'ble coordinate bench has observed as under:-

"….46. Before us also, the Ld. counsel for the assessee relied on the decision of Hon'ble Madras High Court in the case of CIT v. Faizan Shoes (P.) Ltd. [2014] 48 taxmann.com 48 (Mad.), wherein the Hon'ble High Court has considered that the services rendered by non-resident agent for completion of export commitment would not fall under the definition for fee for technical services. The Hon'ble Jurisdictional High Court observed in para 12 as under:

"12. In the light of the above said decisions and the finding rendered by us on the earlier issue that the services rendered by the non-resident agent can at best be called as a service for completion of the export commitment and would not fall within the definition of "fees for technical services", we are the firm view that Section 9 of the Act is not applicable to the case on hand and consequently, Section 195 of the Act does not come into play. In view of the above finding, the decision of the Supreme Court in Transmission Corpn. Of A.P Ltd's. case (supra), relied upon by the learned Standing Counsel for the Revenue is not applicable to the facts of the present case. We find no infirmity in the order of the Tribunal in confirming the order of the Commissioner of Income Tax (Appeals)."

47. We noted that none of the authorities below have discussed the nature of marketing fee whether these are paid fee for technical services this needs to be examined. In case, these are not fee for technical services, the A.O cannot make disallowance. Hence, to examine this issue, the matter restore back to the file of A.O. This issue of assessee's appeal is allowed for statistical purposes…."

12.0 We have noted that the facts of the present case are identical to those in the above referred decision and no distinction has been made by the revenue. We have noted that no discussion has been made by the lower authorities as to whether the impugned marketing fees is in the nature of fee for technical services or not. Now, in the event these are not for technical services then the disallowance cannot be made by the Ld. AO. Therefore, in respectful compliance to the decision of Coordinate Bench of this Tribunal Supra, we direct the Ld. AO to re-examine the matter afresh as to whether the management fees is in the nature of fee for technical services or not and to thereafter conclude as per law. To the extent the order of lower authorities is set aside. Accordingly, the ground of appeal of revenue is allowed for statistical purposes.

13.0 As regards ITA No. IT(TP)-8 / Chny/2021 for AY-2014-15, ITA No. IT(TP)-9 / Chny/2021 for AY-2015-16, ITA No. IT(TP)-326 / Chny/2021 for AY-2016-17 it is seen that identical grounds of appeal have been raised by the revenue. No changes, save variations in figures, in facts of the case have been reported. Accordingly the decision in AY-2013-14 Supra shall apply mutatis mutandis. In the result ground of appeal of revenue for these assessment years are also allowed for statistical purposes.

14.0 The next issue that has been raised by the revenue for AY-2014-15, 2015-16 and 2016-17 is in respect of action of the Ld. CIT(A) in deleting the disallowance made by the Ld. AO in respect of bad debts. The facts of all the three years have been reported to be identical, except for the fact that the government agencies are different, and hence for the purpose of this adjudication we take AY-2014-15 as the lead year. Conveying brief facts of the case, the Ld. Counsel for the assesse informed that during AY-2014-15 the assesse had claimed an amount of Rs. 25,84,686/- as deduction u/s 36(1)(vii) on account of bad debts. The impugned amount was in respect of write off of an amount due from M/s. IOC Limited (Panipat Refinery) a government body. The Ld. AO relying upon the decision of Hon'ble Jurisdictional High Court in the case of South India Surgical Company Limited, 287 ITR 62 and of Hon'ble Gujarat High Court in the case of Dhall Enterprises and Engineers 295 ITR 481 held that dues from government bodies cannot be allowed as bad debts.

15.0 The Ld. Counsel for the assesse submitted that the controversy surrounding claim of bad debts is settled by the ratio laid down by Hon'ble Apex Court in the case of M/s. TRF Limited and of Southern Technologies and that the impugned judgements are fully applicable in its case. The Ld. DR submitted that the decision taken by the Ld. AO

placing reliance upon cited judgements in the assessment order is the correct interpretation in law.

16.0 We have heard rival submissions in the light of material available on records. The Ld. AO has made the impugned disallowance on the singular premise that the assesse has written off bad debts in respect of government agencies and because a government can never deemed to become insolvent, claim of bad debts cannot be allowed. Before the Ld. First Appellate Authority, the assesse had also taken a stand that in AY-2009-10 his predecessor had allowed the claim of bad debts. The Ld. Counsel for the assesse also argued that the amounts claimed as bad debts were actually those which were deducted by the government agencies on account of performance based evaluation and therefore the decision of Hon'ble Madras High Court and Gujarat High Court Supra is distinguished. We find force in the argument of the Ld. First Appellate Authority that it is not upto the Ld. AO to verify as to whether or not the debts have actually become bad. The law of bad debts prescribed u/s 36(1)(vii) clearly postulates that an amount which has been offered by a taxpayer as income in any preceding year and which has been claimed as bad debts in any succeeding years after passing of necessary entries into party's account is to be allowed as bad debt in the year of its claim. Hon'ble Apex Court has also settled the controversy in the case of TRF

Limited, wherein Hon'ble Apex Court has held that showing as income in earlier years and claiming as bad debts by passing appropriate entries in financial statements would suffice for allowance of claim. It has also been held that there is no need to establish recoverability of an amount for its allowance u/s 36(1)(vii). We also find that the Ld. CIT(A) has comprehensively analyzed the issue before adjudicating in favour of the assesse. Therefore, we feel that there is no case for any interference in his order at this stage. Accordingly, the order of the Ld. First Appellate Authority for AY-2014-15 is sustained and the ground of appeal raised by the revenue challenging the issue of bad debts is dismissed.

17.0 As regards ITA No. IT(TP)-9 / Chny/2021 for AY-2015-16, ITA No. IT(TP)-326 / Chny/2021 for AY-2016-17 it is seen that identical grounds of appeal have been raised by the revenue. No changes, save variations in figures and names of government agencies, in facts of the case have been reported. Accordingly the decision in AY-2014-15 Supra shall apply mutatis mutandis. In the result ground of appeal of revenue for these assessment years are also dismissed.

18.0 The next issue that has been raised by the revenue for AY-2013-14 is in respect of action of the Ld. CIT(A) in deleting the disallowance made by the Ld. AO in respect of transfer pricing adjustments u/s

92CA(3). From the perusal of Ld. AO's order we find that the Ld. TPO had recommended an adjustment of 1% of the value of services provided, in this case being value of the corporate guaranty to its overseas AEs. As per the factual matrix the assesse had acquired shares of VA Tech Wabag GmbH Austria from siemens and the purchase consideration for the acquisition of the shares of the company namely VA Tech Wabag GmbH Austria is by taking over the contingent liability which included performance bank guaranty given by Austrian subsidiary to various customers amounting to some 70 Million Euros. Originally these customers of VA Tech Austria AE were guaranteed by the bank of Austria and backed by corporate performance guaranty given by Siemens. Upon acquisition of shares from Siemens the assesse entered its (Siemens) shoes qua corporate performance guaranty. The Ld. Counsel for the assesse informed that the assesse had extended corporate guaranty for its overseas associated enterprises and that there was no cost imbedded therein. It was argued that consequently there cannot be any case for disturbance to its ALP. The Ld. CIT(A) held that the extension of a corporate guaranty is a cost neutral activity and therefore cannot be part of any ALP adjustments. While deleting the addition made by the Ld. AO he relied upon the decision of the Coordinate Bench of this tribunal in ITA No.458 / MDS / 201 in the case of TVS Logistics Services Limited. Before

us, in support of its contentions, the Ld. Counsel also placed reliance upon the decision of the Coordinate Bench of this tribunal in assesse's own case for AY-2010-11 and 2011-12 vide ITA Nos.953 / Chny / 2015 and 807/Chny/2016 respectively holding that only part adjustment of corporate guaranty can be done. The Ld. DR fairly conceded that the issue stands partly decided in favour of the assesse by the above decisions.

19.0 We have heard rival submissions in the light of material available on records. We have noted that decision of the Coordinate Bench of this tribunal in assesse's own case for AY-2010-11 and 2011-12 vide ITA Nos.953 / Chny / 2015 and 807/Chny/2016 on this issue a corporate guaranty, pronouncing as under:

> "…8. Before us, the Ld. CIT-DR relied on the decision of Hon'ble High Court of Madras in the case of Redington (India) Ltd. vs. Addl. CIT [2022] 242 ITR 450 (Mad.).
> 9. On the other hand, the Ld. counsel for the assessee only requested that in view of the decision of Hon'ble Bombay High Court in the case of Everest Kanto Cylinder Ltd. 52 taxmann.com 395 (Bom.), wherein it is held that the corporate guarantee upward adjustment in ALP can be done by taking 0.5%, but it is held to be international transaction. The Ld. counsel for the assessee only requested that the upward adjustment of ALP can be done at 0.5%.
> 10. After hearing both the parties and going through the facts and circumstances of the case, we concur with the TPO's order that this is an international transaction, but upward adjustment is now covered in favour of the assessee partly by the decision of Hon'ble Bombay High Court in the case of Everest Kanto Cylinder Ltd, supra, wherein it is directed that the adjustment should be made @0.5%. Hence, we direct the A.O accordingly.

> 11. Coming to ITA No.807/CHNY/2016 for the assessment year 2011-12 of assessee's appeal, the issue is regarding corporate guarantee charged by AO and affirmed by DRP at the rate of 1.5%. Since we have adjudicated this issue while dealing with Revenue's Appeal in ITA No.953/CHNY/2015 for assessment year 2010-11 and the facts are identical, taking a consistent view, we direct the AO to adopt the rate @ 0.5%. This issue of the assessee's appeal is partly-allowed…"

20.0 In respectful compliance to the decision of the Coordinate Bench of this tribunal supra as also in consideration of the principles of consistency we therefore set aside the orders of lower authorities and direct the Ld. AO to recalculate the disallowance by adopting the rate of 0.5% for his addition. Accordingly, the ground of appeal raised by the revenue is partly allowed.

21.0 The next issue that has been raised by the revenue for AY-2014-15 is in respect of action of the Ld. CIT(A) in deleting the disallowance made by the Ld. AO in respect of adhoc disallowance. Brief factual matrix of the case is that consequent to the survey proceedings upon the assesse, it had filed a letter dated 11.08.2014 expressing its inability to file a specific details, documents, vouchers, invoices in relation to several of its projects. It was submitted that these expenses have been incurred in due course of its business and were for the purposes of the business. The assesse however with a view to avoid litigation, offered an amount of Rs. 1 Cr. as its undisclosed income qua such unexplained expenses. The same were however not offered in its return of income. In response

to queries of the Ld. AO the assesse merely submitted that all its expenses were properly vouched. The Ld. AO rejected assesse's submissions and made the impugned of Rs.1 Cr. The Ld. First Appellate Authority held that the Ld. AO has not brought any specific inconsistency and defects in the accounts to justify the adhoc disallowance. Consequently, he deleted the addition. The Ld. DR vehemently argued in favour of the addition made by the Ld. AO holding that the same is based upon correct understanding of the facts of the case.

22.0 We have heard the rival submissions in the light of material available on records. It is an undisputed fact of the case that a survey had taken place upon the assesse in which deficiencies qua maintenance of proper records, details, bills, vouchers were noted. The letter dated 11.08.2014 of the assesse referred by the Ld. AO in his order is itself a sufficient documents in this regard and is in the nature of assesse's own admission of its defaults. The income of Rs.1 Cr. was himself offered by the assesse. There is nothing on record to suggest that this disclosure of additional income was contested by the assesse through any letter to the department. Once an assesse has admitted additional income by confessing its guilt of non-maintenance of proper records, details, bills, vouchers there cannot be any justified case for any retraction. To this effect the justification of Ld. First Appellate Authority in holding that the

Ld. AO was required to bring on record specific inconsistency / defect is totally uncalled for. Accordingly, we are of the view that the decision of Ld. CIT(A) is not based upon proper understanding of the facts of the case. We therefore set aside the order of the Ld.CIT(A) and confirm the addition by the Ld. AO amounting to Rs.1 Cr. Accordingly, the ground of appeal raised by the revenue is allowed.

23.0 The next issue that has been raised by the revenue for AY-2016-17 is in respect of action of the Ld. CIT(A) in deleting the disallowance made by the Ld. AO in respect of 14A. The Ld. Counsel for the assesse submitted that the assesse had submitted during assessment proceedings that as it is having sufficient capital and reserves for its investments, no disallowance has been worked out u/s 14A. The Ld. AO however observed that a disallowance u/s 14A was made in the case of the assesse for AY-2015-16. Consequently following the same premise he proceeded to make additions / disallowances in this year as well. The Ld. Counsel observed that the Ld. CIT(A) has rightly deleted the disallowance made by the Ld. AO. He held that Hon'ble Jurisdictional High Court in the case of Chettinadu Logistics Private Limited 80 Taxman.com 221 has held that where there was no exempt income, provisions of 14A cannot be invoked. He held that the said decision has been further fortified in the decision of again the Hon'ble Jurisdictional

High Court in the case of MARG Limited. Before us the Ld. Counsel for the assesse submitted that the ratio laid down by Hon'ble Special Bench of the Tribunal in the case of Vireet Investment Private Limited is also applicable.

24. We have heard rival submissions in the light of material available on records. We have noted that the Ld. AO has made addition primarily relying upon the additions made by him in AY-2015-16. We have also noted that the Ld. First Appellate Authority had deleted the impugned additions and the department had accepted the same by not contesting the same. Be that as it may be we are of the view that the reliance placed by Ld. First Appellate Authority on the orders of the Hon'ble Jurisdictional High Court and of the Ld. Counsel for the assesse in the decision of Hon'ble Special Bench of the Tribunal in the case of Vireet Investment Private Limited is in order. Accordingly we are of the view that there is no case for interference at this stage. We therefore sustain the findings of the Ld. CIT(A). The ground of appeal raised by the revenue is therefore dismissed.

24. In the result, the appeals of the revenue are decided as under:-

ITA Nos	Assessment Year	Result
IT(TP)-7 / Chny/2021	2013-14	The appeal of the revenue is partly allowed
IT(TP)-8 / Chny/2021	2014-15	The appeal of the revenue is partly allowed
IT(TP)-9 / Chny/2021	2015-16	The appeal of the revenue is partly allowed
IT(TP)-326 /Chny/2021	2016-17	The appeal of the revenue is partly allowed

Order pronounced on 16th, October -2024 at Chennai.

Sd/-
(एबी टी. वर्की)
(ABY T VARKEY)
न्यायिक सदस्य **/ Judicial Member**

Sd/-
(अमिताभ शुक्ला)
(AMITABH SHUKLA)
लेखा सदस्य /Accountant Member

चेन्नई/Chennai, दिनांक/Dated: 16th , October -2024.
KB/-

आदेश की प्रतिलिपि अग्रेषित**/Copy to:**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT - Chennai
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF