

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'H' NEW DELHI**

**BEFORE SHRI M. BALAGANESH, ACCOUNTANT MEMBER AND
SHRI VIMAL KUMAR, JUDICIAL MEMBER**

ITA Nos. 1819 & 1820/Del/2024
(Assessment Years : 2016-17 & 2017-18)

ACIT Room No.192A, First Floor CR Building, IP Estate, New Delhi – 110 002	Vs.	T.V. Today Network Ltd. F-26, First Floor, Connaught Place, New Delhi – 110 001 PAN : AABCT 0424 B
(Appellant)		(Respondent)

Assessee by	Shri Madhur Aggarwal, Adv.
Respondent by	Shri Amit Katock, Sr. D.R.

Date of Hearing	01.10.2024
Date of Pronouncement	10.12.2024

O R D E R

PER VIMAL KUMAR, JM:

1. These two appeals filed by Revenue are against the order dated 26.02.2024 of Learned Commissioner of Income Tax (Appeals) – National Faceless Appeal Centre, Delhi [hereinafter referred to as 'Ld. CIT(A)'] arising out of assessment order dated 31.12.2019 of the Assessment Unit, Income Tax Department (hereinafter referred as 'Ld. AO') under section 143(3) of the Income Tax Act, 1961

[hereinafter referred to as “the Act”] for the Assessment Years 2016-17 & 2017-18.

2. The issues except ground no.3 in A.Y. 2016-17 being common and being related to the same assessee from different assessment years the respective appeals of the assessee have heard together and a common order is being passed hereunder.

3. We shall first take up the A.Y. 2016-17 for adjudication purposes.

ITA No. 1819/Del/2024 (Revenue’s appeal) for A.Y. 2016-17:

4. Brief facts of the case are that the appellant company is engaged in the business of broadcasting of news channels and FM radio. The assessee electronically filed original return of income for A.Y. 2016-17 on 30.11.2016 declaring income of Rs.1,43,55,33,550/- which was later on revised on declaring income of Rs.1,42,72,62,280/-. The case was selected for scrutiny assessment during the course of assessment proceedings. Learned AO made the following additions:

- Disallowance under section 14A of the Act – Rs.1,43,73,610/-
- Addition on account of Rental Income – Rs.10,43,144/-
- Disallowance of Misc. Foreign Expenses – Rs.1,19,33,625/-
- Disallowance of Advertisement and sales promotion exp. – Rs.1,06,42,710/-

- Disallowance of 50% of software expenses – Rs.16,84,803/-
- Disallowance of expenses of Consumption debtors – Rs.82,33,577/-
- Disallowance under section 43B of the Act towards claim of Leave Encashment – Rs.77,71,211/-

5. Appellant/assessee preferred separate appeals before the NFAC which were partly allowed vide order dated 26.02.2024.

6. Being aggrieved, appellant/department of Revenue preferred separate appeals.

7. Learned Departmental Representative for the department of Revenue submitted that learned CIT(A) erred in deleting the addition of Rs.1,43,73,610/- on account of disallowance under section 14A of the Act read with Rule 8D of the I.T. Rules, 1962. Learned CIT(A) also erred in directing the AO for making verification of the claim of assessee with respect to Rental income of Rs.10,43,144/-. Learned CIT(A) also erred in deleting the addition of Rs.1,19,33,625/- on account of disallowance of Misc. Expenses. Learned CIT(A) erred in deleting the addition of Rs.1,06,42,710/- on account of disallowance of advertisement and sales promotion expenses. Learned CIT(A) erred in deleting the addition of Rs.82,33,577/- on account of disallowance of expenses of Consumption debtors. Learned CIT(A) erred in directing the AO for

making verification of the claim of assessee of Leave Encashment amounting to Rs.77,71,211/-. Learned CIT(A) has erred in deleting the addition on account of Disallowance of 50% of software expenses amounting to Rs.16,84,803/-.

8. Learned Authorized Representative for the respondent/assessee submitted that learned CIT(A) had directed the learned AO to verify and give relief regarding rental income. The learned AO without rejecting books of accounts had erred in making additions regarding Misc. Expenses. Ground Nos. 5 to 6 were covered by the judgment of Hon'ble ITAT in the assessee's case, so appeals may be rejected.

9. From examination of record in light of aforesaid rival contentions, it is crystal clear that learned CIT(A) set aside the addition of Rs.1,43,73,610/- on account of disallowance under section 14A of the Act read with Section 8D of the Income Tax Rules. As the appellant company had not earned any exempt income from the investment and the investment did not fall under the category of exempt income in the year under consideration. Hon'ble High Court had rendered decision in the appellant's own case for the A.Y. 2012-13. Therefore, deletion of Rs.1,43,73,610/- on account of disallowance deserves to be upheld.

10. Learned CIT(A) by referring the details of Rental income observed that appellant had submitted details of documents before the AO for verification. Therefore, the learned CIT(A) directed the learned AO to consider the submissions made by the appellant/assessee and give relief subject to verification of evidence. In the given facts, the order of learned CIT(A) deserves approval.

11. Learned CIT(A) on perusal of submissions observed that the assessee had submitted the details with respect of Misc. Foreign Currency Expenses vide letters dated 16.12.2019 and 28.12.2019. Learned AO observed that the expenses could not be verified. It is a fact that the claim in the return was duly audited by the clarified Chartered Accountant so there were no reasons for learned AO for rejecting the claim. Genuinity of expenses not doubted and expenses being incurred wholly and exclusively for purposes of business are not disputed by the revenue. So assessee deserves relief. As such learned CIT(A) rightly deleted the addition of Rs.1,19,33,625/-.

12. Learned CIT(A) deleted the addition of Rs.1,06,42,710/- on account of disallowance of advertisement and sales promotion expenses on being 1% of total expenditure on the head. Learned CIT(A) appreciated that learned AO did not find any discrepancies in the books of accounts. The books of accounts were not rejected. In the case of assessee's own case, learned CIT(A) for A.Ys. 2011-12 &

2012-13 had decided the issue in favour of the assessee. So the contention of learned AO was not justifiable and the reasons of treating 1% of total expenditure as bogus or unexplained was unwarranted.

13. Learned CIT(A) had deleted the addition of Rs.82,33,056/- on account of disallowance of expenses of Consumption debtors.

14. Learned CIT(A) appreciated party wise details of consumption debtors showing that the discount was very much ascertained. The consumption debtors were filed before the learned AO during the course of assessment proceedings vide reply dated 24.12.2019. Assessee contended that the issue has continuously being allowed by learned CIT(A) for the A.Ys. 2008-09, 2009-10, 2010-11, 2011-12, 2012-13, 2013-14 & 2014-15. The ITAT has also allowed this claim of the A.Ys. 2011-12, 2012-13, 2013-14 & 2014-15 and the Hon'ble High Court of Delhi also allowed the case in favour of the assessee. The learned CIT(A) rightly relying on the judgments deleted additions to the tune of Rs.82,33,577/- on account of disallowance of expenses on consumption debtors.

15. Learned CIT(A) directed the learned AO to make verification of the claim of the assessee of Leave encashment amounting to Rs.77,71,211/-. As per ratio of judgment in the case of *Exide*

Industries Ltd. vs. Union of India 292 ITR 470, the directions for verification of the claim of assessee are deserves to be upheld.

16. Learned CIT(A) deleted the addition on account of Disallowance of 50% of software expenses amounting to Rs.16,84,803/-. Since learned AO had not given any specific reason and exact amount of the expenditure to treat such expenditure as capital in nature. Relying on judgments of learned CIT(A) and ITAT in appellant's own case, the view taken by learned CIT(A) is meritorious.

17. In view of above material facts and circumstances, the arguments of learned Authorized Representative of department of Revenue being devoid of merit are untenable. The grounds of appeals are dismissed.

18. In the result, appeal in ITA No.1819/Del/2024 filed by the department is dismissed.

ITA No.1820/Del/2024 for A.Y. 2017-18

19. As the facts and circumstances except ground no.3 of the above mentioned appeal is admittedly *mutatis mutandis* similar to the discussed and disposed of in ITA No.1819/Del/2024

hereinabove, we hold accordingly and also dismiss the appeal of the department.

20. In the combined result, both the appeals filed by the department are dismissed.

Order pronounced on this day 10th December, 2024

**Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER**

**Sd/-
(VIMAL KUMAR)
JUDICIAL MEMBER**

Dated: 10.12.2024

Priti Yadav, Sr. PS

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI