

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'E', NEW DELHI**

**Before Sh. Satbeer Singh Godara, Judicial Member
&**

Sh. M. Balaganesh, Accountant Member

ITA No. 1933/Del/2020 : Asstt. Year : 2016-17

Montage Enterprises Pvt. Ltd., 205, 2 nd Floor, V-4, Mayur Plaza-2, Local Shopping Centre, Mayur Vihar, Phase-I, New Delhi-110091	Vs	ACIT, Central Circle-27, New Delhi-110055
(APPELLANT)		(RESPONDENT)
PAN No. AACCM8173H		

ITA No. 10/Del/2021 : Asstt. Year : 2016-17

DCIT, Central Circle-27, New Delhi-110055	Vs	Montage Enterprises Pvt. Ltd., C-53, Shashi Garden, Near Pocket-V, Gurudwara, Mayur Vihar, Phase-I, New Delhi-110091
(APPELLANT)		(RESPONDENT)
PAN No. AACCM8173H		

Assessee by : Sh. M. P. Rastogi, Adv.

Revenue by : Sh. Akhilesh Kumar Yadav, Sr. DR

Date of Hearing: 05.12.2024	Date of Pronouncement: 13.12.2024
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ORDER

Per Satbeer Singh Godara, Judicial Member:

These assessee and Revenue cross appeal ITA No. 1933/Del/2020 and ITA No. 10/Del/2021, for Assessment Year 2016-17, arise against the CIT(A)-29, New Delhi's order dated 22.10.2020 in case No. 162/2019-20, in proceedings u/s 143(3) of the Income Tax Act, 1961 (in short "The Act").

2. Heard both the parties at length. Case file perused.

3. We note at the outset that the Revenue cross appeal herein ITA No. 10/Del/2021 infact involves tax effect of

Rs.53,25,779/- i.e. less than the minimum prescribed amount of Rs.60,00,000/- as per the CBDT latest circular no. 2/2024 dated 07.09.2024 admittedly made applicable with retrospective effect. We thus reject the Revenue's instant appeal as involving lower than the above prescribed tax effect of Rs.60,00,000/- subject to all just exceptions.

4. We are now left with the assessee's appeal ITA no. 1933/Del/2020 raising the following twin substantive grounds:

"1. On the facts and in the circumstances of the case, the lower authority has erred in confirming disallowance to the extent of Rs.38,58,216/- u/s 14A read with Rules 8D. It is contended that Section 14A is not applicable in the case of the appellant.

2. That on the facts and circumstances of the case, the Id. CIT(Appeals) was not justified and grossly erred in not allowing deduction of Education Cess on Income Tax in computing total income under the normal provisions of the Act for the Assessment Years 2015-15 and 2016-17."

5. Learned counsel at the outset does not press for the assessee latter substantive ground raising the issue of education cess as an allowable business deduction. Rejected accordingly.

6. This leaves us with the assessee's former issue of correctness of both the lower authorities action making section 14A r.w. Rules 8D disallowance of Rs.38,58,216/- relating to its exempt income. We note during the course of hearing that this is a recurring issue between the parties since A.Y. 2008-09 which formed subject matter of adjudication in this tribunal's various orders. More particularly, the latest of them is dated 20.06.2024 in assessee's appeal ITA No. 7443/Del/2017 for A.Y. 2014-15 holding therein that such a disallowance is not sustainable in absence of any section 14A(2) satisfaction

having drawn by the Assessing Officer *qua* its books of account. That being the undisputed case from the Revenue side as well, we adopt judicial consistency to accept the assessee's instant foremost substantive ground in very terms. This assessee's appeal ITA No. 1993/Del/2020 is partly allowed therefore. Necessary computation shall follow as per law.

6.1 No other ground or arguments has been pressed before us.

7. To sum up, this assessee's appeal ITA No. 1933/Del/2020 is partly allowed and the Revenue cross appeal ITA No. 10/Del/202 is dismissed in above terms. A copy of this common order be placed in the respective case files.

Order Pronounced in the Open Court on 13/12/2024.

Sd/-

(M. Balaganesh)
Accountant Member

Dated: 13/12/2024

Sd/-

(Satbeer Singh Godara)
Judicial Member

Subodh Kumar, Sr. PS

Copy forwarded to:

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

ASSISTANT REGISTRAR