

**IN THE INCOME-TAX APPELLATE TRIBUNAL “E” BENCH,
MUMBAI**

**BEFORE MS. KAVITHA RAJAGOPAL, JUDICIAL MEMBER
&
SMT. RENU JAUHRI, ACCOUNTANT MEMBER**

**ITA No. 6303/MUM/2024
(A.Y. 2013-14)**

Toppler Fashions (India) Pvt. Ltd. (As successor company of Loyal Apparels Pvt. Ltd.) 10-11, Meher Tiles Compound, Subhash Road, Jogeshwari East, Mumbai-400060	v/s. बनाम	DCIT, Circle 3(3)(1), Mumbai Aayakar Bhavan, Maharshi Karve Road, Mumbai-400020
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: AACCT4024E		
Appellant/अपीलार्थी	..	Respondent/प्रतिवादी

Assessee by :	Shri Hemant Joshi
Revenue by :	Shri Hemanshu Joshi

Date of Hearing	28.01.2025
Date of Pronouncement	29.01.2025

आदेश / ORDER

PER RENU JAUHRI [A.M.] :-

This appeal is filed by the assessee against the order of the Learned Additional/Joint Commissioner of Income-tax (Appeals), Mumbai-10 Delhi/National Faceless Appeal Centre, Delhi [hereinafter referred to as “CIT(A)”] dated 08.10.2024 passed u/s. 250 of the Income-tax Act, 1961 [hereinafter referred to as “Act”] for Assessment Year [A.Y.] 2013-14.

2. The assessee has raised the following grounds of appeal:

“1. GROUND NO. 1: APPELLATE PROCEEDINGS IN VIOLATION OF THE PRINCIPAL OF NATURAL JUSTICE:

1.1 On the facts and in the circumstances of the case and in law, the Learned CIT (A) erred in confirming, the Assessment Order dated 29/03/2016, passed by the Learned Assessing Officer, u/s 143(3) of the Income Tax Act, without providing sufficient and adequate opportunity of being heard to the Appellant and without considering the facts and submissions available on the records.

1.2 The Appellant humbly submits that it was not having any access to the E-mail Address, which was available on records, where the various compliance Notices were delivered by the Learned CIT(A), for response / reply, by the Appellant and therefore, the Appellant humbly prays that such Order dated 08/10/2024, of the Learned CIT(A), grounded on the violation of the principal of the natural justice, fair play and equity, may kindly be quashed and justice be done to the Appellant.

2. GROUND NO. 2: DISALLOWANCE OF RS. 16,01,503/- U/S.14A R.W.R. 8D:

2.1 On the facts and in the circumstances of the case and in law, the Learned CIT(A) erred in confirming, the additional disallowance of Rs. 16,01,503/-, computed u/s. 14A r.w.r. 8D incurred, allegedly in relation to the exempt income, in the form of Long Term Capital Gains on the sale of the Listed Equity shares and Dividends received from the Listed Equity shares, duly computed, by the Learned ACIT, CIRCLE, 12(3)(2), MUMBAI, vide his Assessment Order dated 29/03/2016, under regular/normal provisions of the Income Tax Act.

2.2 The Learned CIT(A) failed to appreciate and ought to have considered the facts of the Case and submissions available on the records, that, Appellant had suo-moto disallowed, the expenditure of Rs. 8,28,994/-, u/s 14A of the Income Tax Act, while computing "Returned Loss", under the regular /normal provisions of the Income Tax Act and therefore, any additional computation of disallowance of Rs. 16,01,503/-, under the pretext of the applicability of rule 8D, was unwarranted and was not in accordance with the law.

2.3 The Appellant prays that the disallowance of Rs. 16,01,503/- made u/s: 14A r.w.r. 8D be deleted, while computing "Returned Loss", under the regular /normal provisions of the Income Tax Act and justice be done to the Appellant.

3. GROUND NO. 3: DISALLOWANCE OF INTEREST OF RS. 92,27,366/- U/S. 36(1)(iii):

3.1 On the facts and in the circumstances of the case and in law, the Learned CIT(A) erred in confirming, the disallowance of the proportionate Interest expenditure of Rs. 92,27,366/- u/s. 36(1)(iii), incurred, allegedly in relation to the funds utilised for giving non-interest bearing advances, duly computed, by the Learned ACIT, CIRCLE, 12(3)(2), MUMBAI, vide his Assessment Order dated 29/03/2016, under regular / normal provisions of the Income Tax Act.

3.2 The Learned CIT (A) failed to appreciate and ought to have considered, the facts of the Case and submissions available on the records, that, the interest expense was incurred by the Appellant, for the utilisation of funds for giving advances for the purpose of its business and the Appellant also had sufficient



non-interest bearing funds / own funds, for making such advances and therefore, such interest expenses ought to have been allowed.

3.3 The Appellant prays that the disallowance of interest expenses of Rs. 92,27,366/- made u/s. 36(1)(iii) be deleted, while computing "Returned Loss", under the regular / normal provisions of the Income Tax Act and justice be done to the Appellant.

4. GROUND NO. 4: ADDITION OF RS. 24,30,497/- WHILE COMPUTING BOOK PROFIT U/S 115JB OF THE ACT:

4.1 On the facts and in the circumstances of the case and in law, the Learned CIT(A) erred in confirming, the addition of Rs. 24,30,497/-, computed u/s. 14A r.w.r. 8D incurred, allegedly in relation to the exempt income, in the form of Long Term Capital Gains on the sale of the Listed Equity shares and Dividends received from the Listed Equity shares, duly computed, by the Learned ACIT, CIRCLE, 12(3)(2), MUMBAI, vide his Assessment Order dated 29/03/2016, for the computation of "Book Profits" u/s 115JB of the Income Tax Act.

4.2 The Learned CIT(A) failed to appreciate and ought to have considered, the facts of the Case and submissions available on the records, that, the Appellant had suo-moto disallowed/ added, the expenditure of Rs. 8,28,994/-, u/s 14A of the Income Tax Act, while computing its "Book Profits of Rs. 36,30,691/-, u/s 115JB of the Income Tax Act, which was available on the records and therefore, the addition of the same amount of Rs. 8,28,994/- again and any additional computation of disallowance / addition of Rs. 16,01,503/-, under the pretext of the applicability of rule 8D, both such additions was unwarranted and was not in accordance with the law, while computing the "Book Profits" u/s 115JB of the Income Tax Act.

4.3 The Appellant prays that the disallowance / addition of Rs. 24,30,497/- (Rs. 8,28,994/- 16,01,503/-) made u/s. 14A r.w.r. 8D, be deleted, while computing the "Book Profits" u/s 115JB of the Income Tax Act and justice be done to the Appellant.

5. GROUND NO. 5: INITIATION OF PENALTY U/S 271 (1) (C) OF THE ACT:

5.1 On the facts and in the circumstances of the case and in law, the Learned CIT (A) erred in confirming, the Assessment Order dated 29/03/2016, passed by the Learned Assessing Officer, u/s 143(3) of the Income Tax Act, initiating Penalty proceedings u/s 271 (1) (c) of the Act, without providing sufficient and adequate opportunity of being heard to the Appellant and without considering the facts and submissions available on the records.

5.2 The Appellant prays that, such initiating of Penalty proceedings u/s 271 (1) (c) of the Act, may kindly be quashed and justice be done to the Appellant."

3. At the outset, Ld. AR has submitted that the assessee's application filed under Vivad se Vishwas Scheme has been accepted and Form 2 has also been



issued by the designated authority on 27.12.202. The assessee has also paid the due tax of Rs. 4,18,480/- pursuant to the acceptance of his application. Accordingly, Ld. AR has requested permission to withdraw the appeal.

4. In view of the above facts, the appeal of the assessee is dismissed as withdrawn.

Order pronounced in the open court on 29.01.2025.

Sd/-

KAVITHA RAJAGOPAL

(न्यायिक सदस्य/JUDICIAL MEMBER)

Sd/-

RENU JAUHRI

(लेखाकार सदस्य/ACCOUNTANT MEMBER)

Place: मुंबई/Mumbai

दिनांक /Date 29.01.2025

अनिकेत सिंह राजपूत/ स्टेनो

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त / CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण DR, ITAT, Mumbai
5. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//
आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण/ ITAT, Bench,
Mumbai.

