

**IN THE INCOME TAX APPELLATE TRIBUNAL "C" BENCH, KOLKATA**

**BEFORE SHRI RAJESH KUMAR, AM  
AND  
SHRI PRADIP KUMAR CHOUBEY, JM**

**ITA Nos. 747 & 748/KOL/2023  
(Assessment Years: 2010-11 & 2011-12)**

**Tata Consumer Products  
Limited**

1, Bishop Lefroy rod,  
L.R Sarani SO  
Kolkata-700020  
West Bengal

**(Appellant)**

**Vs.**

**JCIT (IN SITU)& DCIT, Cir-4  
Aaykar Bhavan, P-7,  
Chowringhee Square, 8<sup>th</sup> Floor,  
Kolkata-700069  
West Bengal**

**(Respondent)**

**ITA Nos.1183/KOL/2023 &506/KOL/2024  
(Assessment Years:2010-11 &2011-12)**

**JCIT (IN SITU)**

Aaykar Bhavan, P-7,  
Chowringhee Square, 8<sup>th</sup> Floor,  
Kolkata-700069  
West Bengal

**(Appellant)**

**Vs.**

**Tata Consumer Products  
Limited**

1, Bishop Lefroy rod,  
L.R Sarani SO  
Kolkata-700020  
West Bengal

**(Respondent)**

**PAN No. AABCT0602K**

**Assessee by** : Shri Ashik Shah, AR  
**Revenue by** : Shri Arup Chatterjee, DR

**Date of hearing:** 11.03.2025  
**Date of pronouncement :** 17.03.2025

**ORDER**

**Per Rajesh Kumar, AM:**

These cross appeals are preferred by the assessee and Revenue against the order of the Commissioner of Income-tax (Appeals), Kolkata-22 (hereinafter referred to as the "Ld. CIT(A)") even dated 30.05.2023 for the AY 2010-11 &2011-12 respectively.

**ITA No.:747/KOL/2023**

02. The ground no. 1 is general in nature and therefore, requires no adjudication.
03. The issue raised in ground no.2, is against the order of Id. AO/Transfer Pricing Officer holding that the corporate guarantee given by the appellant on behalf of its Associated Enterprises falls within the definition of international transactions u/s 92B of the Act.
04. After hearing the rival contentions and perusing the materials available on record, we find that the issue is a recurring one in the assessee own case and has been decided by the co-ordinate Bench in ITA No. 1854/KOL/2016 vide order dated 13.02.2023 in assessee's own case, wherein it has been held that the corporate guarantee transactions are international transactions and accordingly, ground no. 2 raised by the assessee is dismissed.
05. The issue raised in ground no.3 is against the order of the Id. AO/ Transfer Pricing Officer not following the binding order of Tribunal in ITA No.1854/KOL/2016 and 1899/KOL/2017 vide order dated 13th February, 2023 in assessee's own case, wherein the Arm's Length Price corporate guarantee fee has been restricted to 0.5%.
06. After hearing the rival contentions and perusing the materials available on record, we find that the Id. CIT (A) has already followed the decision of the co-ordinate Bench and restricted the Arm's Length Price of corporate guarantee fee at 0.5% by following the above decision of the co-ordinate Bench in assessee's own case. Therefore, we do not find any merit in the ground o. 3 raised by the assessee and accordingly, same is dismissed.



07. The appeal of the assessee is dismissed.

**ITA No.:748/KOL/2023**

08. The ground raised by the assessee from 1 to 3 are similar to ones as decided in ITA No. 747/KOL/2023 in A.Y. 2010-11(supra). Therefore, our decision in ITA No. 747/KOL/2023 would apply mutatis mutandis appeal to ITA No.748/KOL/2023 for A.Y. 2011-12. Consequently, the appeal of assessee is dismissed.

**ITA No.:1183/KOL/2023**

09. At the outset, we observe on the basis of records before us that the appeal filed by the Revenue in ITA No. 1183/KOL/2023 is barred by limitation by 75 days, for which the condonation petition was filed by the revenue. We observe from the said condonation petition that the reasons cited for delay in late filing the appeal were on account of taking administrative and hierarchical approvals at various stages, which caused the delay in filing the appeal. Since, we find the reasons is genuine and bonafide, we hereby condone the delay in filing the appeal and admit the same for adjudication.

010. The only issue raised by the assessee is against the deletion of addition of ₹1,80,74,565/- as made by the AO u/s 14A r.w.s Rule 8D of the Rules.

011. We note that the issue is similar to one has been decided by the Tribunal in assessee's own case in ITA No. 1854/KOL/2016 for A.Y. 2012-13 vide order dated 13.02.2023. We note that during the relevant assessment year, the assessee has earned a dividend income of ₹3,655.20 lacs and the claimed the same as exempt u/s 10(34) of the Act. Against the said income, the assessee has suo moto



disallowed ₹25,52,000/- as expenses u/s 14A of the Act relating to earning of exempt income. However, the Id. AO applied rule 8D of the Rules and computed the disallowance at ₹2,06,26,565/- and after making an allowance for the suo moto disallowance , a net addition of ₹1,80,74,565/- was made. The Id. CIT (A) deleted the addition by following the decision of the co-ordinate bench in ITA No. 1854/KOL/2016 (supra). The relevant part of the decision is extracted below:-

*"16. Now, we are taking the next common issue relating to disallowance u/s 14A of the Act raised commonly in ground no. 3 for AY 2012-13 & AY 2013-14. We observe that the assessee suo moto made a disallowance of Rs. 46,72,000/- & Rs. 58,78,000/- u/s 14A of the Act towards expenditure related to exempt income. Ld. AO examined the quantification of the said disallowance but was not satisfied and observed that the company managed its investment portfolio by using the common establishment/infrastructure and therefore, it is not possible to justify the working adopted for computing the disallowance without applying the provision of Rule 8D of Income Tax Rules, 1962. We, further observe that similar issue came up before this Tribunal in assessee's own case for AY 2006-07 to AY 2009-10 wherein also similar observation was made by Id. AO and this Tribunal after considering the facts of the case and also considering the judgment of Hon'ble Delhi High Court in the case of H.T. Media Ltd. vs. PCIT reported in [2017] 85 taxmann.com 113 (Delhi) deleted the disallowance made by Id. AO applying Rule 8D of the Rules and accepted the suo moto disallowance made by Id. AO. Since the issue remains the same and the facts are identical, we therefore, taking the consistent view and also considering the fact that most of the investments held by the assessee are brought forward from preceding year and also the major portion of the investment is in the sister/group concerns of the assessee and thus, reverse the finding of Id. CIT(A) and delete the disallowance made by Id. AO and accept the suo moto disallowance offered by the assessee. Thus, common ground no. 3 raised by the assessee are allowed."*

012. Therefore, we do not find any infirmity in the order of Id. CIT (A) and accordingly ,uphold the same by dismissing the appeal of the Revenue.

013. The appeal of the Revenue is dismissed.

**ITA No.:506/KOL/2024**



014. At the outset, we observe on the basis of records before us that the appeal filed by the Revenue in ITA No. 506/KOL/2024 is barred by limitation by of 216 days, for which the condonation petition was made. We observe from the said condonation petition that the reasons cited for delay in filing the appeal were on account of taking administrative and hierarchial approvals at various stages, which caused the delay in filing the appeal. Since, we find the reasons to be genuine and bonafide, we hereby condone the delay in filing the appeal and admit the same for adjudication.

015. The only issue raised is against the deletion of disallowance as made by the Id. AO u/s 14 read with Rule 8D of the Act amounting to ₹1,88,97,000/- which was computed by the Id. AO after working out the disallowance at ₹2,14,45,000/- and after deducting the suo moto disallowance of ₹25,48,000/- a net addition of ₹1,88,97,000/- was made. The Id. CIT (A) deleted the above addition. Since, we have already dismissed the appeal of the Revenue on this issue in ITA No. 1183/KOL/2023, accordingly, our decision would , mutatis mutandis , apply to this appeal as well. Consequently, the appeal of the Revenue is dismissed.

016. In the result, all the appeals of assessee as well as Revenue are dismissed.

Order pronounced in the open court on 17.03.2025.

Sd/-  
(PRADIP KUMAR CHOUBEY)  
(JUDICIAL MEMBER)

Sd/-  
(RAJESH KUMAR)  
(ACCOUNTANT MEMBER)

Kolkata, Dated: 17.03.2025

Sudip Sarkar, Sr.PS



Copy of the Order forwarded to :

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

BY ORDER,

True Copy//

Sr. Private Secretary/ Asst. Registrar  
Income Tax Appellate Tribunal, Kolkata