

IN THE INCOME TAX APPELLATE TRIBUNAL PANAJI BENCH  
PANAJI

BEFORE SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER &  
SHRI G D PADMAHSHALI ACCOUNTANT MEMBER

I T A. Nos. 112/PAN/2022  
(A.Y. 2014-15 )

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| Vini Prasad Keni,<br>Keni Building,<br>Dr.Dada Vaidhya Road,<br>Panjim-403001,<br>Goa. | Vs | ITO-Ward-1(3),<br>Aayakar Bhavan,<br>Panaji-403001,<br>Goa. |
| PAN .No. ADPPK9767N  |    |   |
| (अपीलार्थी/Appellant)  |    | (प्रत्यर्थी/Respondent)                                     |

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|-------------|--------------------------|
| Assessee by | Shri D.E.Robinson.AR     |
| Revenue by  | Sri Narendra Reddy.Sr.DR |

|                                      |            |
|--------------------------------------|------------|
| सुनवाई की तारीख/Date of Hearing      | 25.02.2025 |
| घोषणा की तारीख/Date of Pronouncement | 20.03.2025 |

**ORDER**

**PER PAVAN KUMAR GADALE, JM:**

The appeal is filed by the assessee against the order of NFAC/ CIT(A) passed u/sec 143(3) and u/sec 250 of the Act.

2. At the time of hearing, the Ld.AR of the assessee submitted that there is a delay of 13 days in filing the appeal before the Hon'ble Tribunal and the assessee has filed the affidavit for condonation of delay. Whereas, the facts mentioned in the affidavit are reasonable and the Ld. DR has no specific objections. Accordingly, we condone the delay and admit the appeal. The assessee has raised

the grounds of appeal challenging the order of the CIT(A) sustaining the additions made by the Assessing Officer.

3. The brief facts of the case are that, the assessee has filed the return of income on 30-11-2014 disclosing a total income of Rs.8,31,650/-. Subsequently the case was selected for limited scrutiny under CASS and the notice u/sec143(2) and u/sec142(1) of the Act along with questionnaire are issued. In compliance, the Ld.AR of the assessee appeared from time to time and submitted the information and details. The Assessing Officer (AO) on perusal of financial statements and information find that (i) the assessee has received the dividend income on shares and units of mutual funds aggregating to Rs.59,49,848/- and claimed exempted. Whereas the A.O. found that the assessee has not made disallowance u/sec 14A of the Act on the expenditure incurred for earning exempt income. The assessee has filed the submissions mentioning that the assessee has not incurred any expenditure and the investments are made without any borrowings from external sources. The A.O was not satisfied with the explanations and dealt on the provisions of section14A of the Act, Rule8D(2) of the IT Rules, judicial decisions and computed disallowance u/sec14A r.w.r8D of IT rules of Rs.32,96,384/-(ii) The A.O found that the assessee has debited Rs,25,00,000/- in the profit & loss account towards reimbursement of processing and other mining expenses and the assessee has not deducted TDS

u/sec194C of the Act. The assessee has filed the submissions explaining that on the similar issue in the A.Y.2013-14, the assessee has filed details and same may be considered for A,Y,2014-15 referred at Para 8.1 of the order. The A.O dealt on the explanations and observed that the assessee has violated the provisions of section 194C of the Act and disallowed the claim invoking the provisions of section 40(a)(ia) of the Act.(iii) the A.O found that the assessee has claimed social and welfare expenses under six categories of expenses aggregating to Rs.8,06,753/-and the assessee was called to substantiate that the expenses are incurred for business purpose. Whereas the A.O was not satisfied with the claims and observed that they are not incurred wholly and exclusively for the purpose of business and disallowed the claim. And (iv) the A.O find that the assessee has debited miscellaneous expenses aggregating to Rs.2,36,745/- in respect of various expenses. The A.O dealt on the nature of expenses at Para7.3 of the order and was not satisfied with the claim , which is not incurred for the business purpose and disallowed the expenses u/sec37(1) of the Act. Finally the A.O has assessed the total income Of Rs.8,31,650/- after setting of business loss and passed the order u/sec 143(3) of the Act dated 30.12.2016.

4. Aggrieved by the order, the assessee has filed an appeal before the CIT(A), whereas the CIT(A) has considered the grounds of appeal, statement of facts and findings of the

AO and has dismissed the assessee appeal. Aggrieved by the order of the CIT(A), the assessee has filed an appeal before the Hon'ble Tribunal.

5. At the time of hearing, the Ld.AR submitted that the CIT(A) has erred in confirming the action of the A.O overlooking the facts and submissions of the assessee in the proceedings. Further the Ld.AR emphasized that the assessee in response to notices has submitted the explanations along with the details and the A.O. has not recorded the satisfaction for invoking the provisions of section 14A of the Act though the assessee has not incurred any expenditure for earning the exempt income and with respect to disputed issue of non deduction of TDS u/sec 194C of the Act, the Ld.AR emphasized that claim is towards reimbursement of processing and other mining expenses. And in respect of claim of transport expenses and other expenses, the assessee has incurred the expenses for the purpose of business. The Ld.AR substantiated the submissions with the paper book and judicial decisions. Per contra, the Ld. DR relied on the order of the CIT(A) and status report of the A.O.

6. We heard the rival submissions and perused the material on record. The Ld.AR submitted that the CIT(A) has erred in sustaining the disallowances overlooking the submissions. On the first disputed issue, of disallowance u/sec 14A of the Act, the Ld.AR mentioned that the assessee has not incurred any expenses for earning exempt income and

referred to the the profit & Loss account, highlighting that the no expenses are debited and the investments are disclosed in the balance sheet. We find that these facts are similar to earlier years and in the latest decision of the Honble Tribunal in the assessee own case for A.Y.2011-12 in ITA.No.203&204/PAN/2018 dated 6.04.2022 has restored the disputed issue of disallowance under section 14A of the Act to the file of the CIT(A). Further the Ld.DR has filed the status report dated 17-02-2025 of the Assessing Officer on this disputed issue of disallowance under section 14A of the Act, were the assesses appeal for A.Y.2013-14, 2016-17 & 2017-18 are pending before National Faceless Appeal Centre(NFAC)/CIT(A) and it is not disputed by the parties. Accordingly, we considering facts, circumstances follow the judicial precedence and restore the disputed issue to the file of the CIT(A) and allow the ground of appeal for statistical purposes. On the second disputed issue of non deduction of TDS u/sec194C of the Act, the ld.AR emphasized that claim is towards reimbursement of processing and other mining expenses. The assessee has filed the submissions before the assesseeing officer explaining that on the similar issue in the A.Y.2013-14, the assessee has filed details and same may be considered for A,Y,2014-15. We find as per the status report of the A.O referred above, the appeal for A.Y 2013-14 is pending before the NFAC/CIT(A) and hence considering these facts, we find it appropriate to remit this issue to the file of the NFAC/CIT(A) and we allow this

ground of appeal for statistical purpose. On the third disputed issue, with respect to claim of transportation expenses, the Ld.AR demonstrated the material details placed at Page 3 to 22 of the paper book, we find the facts are not disputed by the revenue authorities, Hence considering the information and details, we direct the assessing officer to delete the disallowance of Rs.1,85,400/- and we allow this ground of appeal in favour of the assessee. And the Ld.AR has not pressed the ground of appeal no 4 & 5 and the same are treated as withdrawn by the assessee.

7. In the result, the appeal filed by the assessee is partly allowed for statistical purpose.

Order pronounced in the open court on 20.03.2025.

Sd/-  
**(GD PADMAHSHALI)**  
**ACCOUNTANT MEMBER**

Panaji Dated: 20/03/2025

Sd/-  
**(PAVAN KUMAR GADALE)**  
**JUDICIAL MEMBER**

**Copy of the Order forwarded to:**

1. The Appellant,
2. The Respondent
3. The CIT(A)-
4. CIT
5. DR, ITAT,
6. Guard file.

//True Copy//

BY ORDER,  
(Asstt. Registrar)ITAT,  
Panaji

|     |  | Date | <u>Initial</u> |    |
|-----|--|------|----------------|----|
| 1.  | Draft dictated on                                |      |                | PS |
| 2.  | Draft placed before author                       |      |                | PS |
| 3.  | Draft proposed & placed before the second member |      |                | PS |
| 4.  | Draft discussed/approved by Second Member.       |      |                | PS |
| 5.  | Approved Draft comes to the Sr.PS/PS             |      |                | PS |
| 6.  | Kept for pronouncement on                        |      |                |    |
| 7.  | File sent to the Bench Clerk                     |      |                |    |
| 8.  | Date on which file goes to the AR                |      |                |    |
| 9.  | Date on which file goes to the Head Clerk.       |      |                |    |
| 10. | Date of dispatch of Order.                       |      |                |    |
| 11. | Dictation Pad is enclosed                        |      |                |    |