

IN THE INCOME TAX APPELLATE TRIBUNAL  
Mumbai "B" Bench, Mumbai.

Before Shri Narender Kumar Choudhry (JM) &  
Shri Omkareshwar Chidara (AM)

ITA No. 696/MUM/2012 (Assessment Year : 2008-09)

Maharashtra State Road Development Corporation Ltd. M.S.R.D.C. Ltd. Priyadarshini Park Nepenasea Road, Mumbai-400 036.	Vs.	DCIT-5(2) Aayakar Bhavan M. K. Road Mumbai-400 020.
PAN :		
Appellant		Respondent

Assessee by	:	Shri Dalpat Shah
Revenue by	:	Shri Leyaqt Ali Aafaqui
Date of Hearing	:	10/07/2025
Date of pronouncement	:	08/10/2025

ORDER

Per Omkareshwar Chidara (AM) :-

In the above cited appeal, the appellant company raised two grounds, the first being 'prior period expenditure' claimed in this year and second ground relates to disallowance of interest under section 14A of the I.T. Act.

2. The Ld. AO made a disallowance of interest being the same does not pertain to this assessment year, but this claim of interest relates to earlier year to the extent of Rs. 38.48 crore. The Ld. CIT(A) after going through the documents furnished by the appellant during appeal proceedings, found that actually appellant claimed 'prior period expenses' to the extent of Rs. 46.33 crore and hence enhanced the addition to that extent. Aggrieved by the orders of Ld. AO and Ld. CIT(A), the appeal was filed by the appellant company with the following 'Ground of Appeal' on this issue :-

1 Disallowance of Prior Period Expenses

1.1. On the facts and circumstances of the case and in Law, the Id. Commissioner of Income Tax (Apples)-9, Mumbai, erred in confirming the disallowance of interest expenditure of Rs.46,33,03,9917- on the ground that the same is not allowable U/sec 43B of the Income tax Act,1961 ignoring the fact that clause (b) and clause (d) of section 43B is not applicable to the Appellant case and the liability to pay the interest was

crystallised during the year under appeal and therefore is allowable as prior period expenses.

1.2. The said CIT(A) also erred in not deciding on disallowance of other prior period expenses claimed which were included in the total disallowance of Rs.38,48,84,545/-.

2. Disallowance U/sec 14A

On the facts and circumstances of the case and in Law, the Id. CIT (A) erred in confirming the disallowance of Rs.12,60,907/- u/s 14A of the Act r.w.Rule 8D of the Income tax Rules,1962 ignoring the fact that the appellant has not earned any Dividend income during the year on the investments made in earlier year in the subsidiary companies and therefore no disallowance U/sec 14A is warranted.

3. From the assessment order, it is observed that the Ld. AO, made addition of Rs. 38.48 crore holding that if the expenditure relates to earlier years, the same cannot be claimed in this year. As each assessment year is different, the concerned income and expenditure of each year should be claimed in the concerned year only. The Ld. AO further relied on the decision of Hon'ble Supreme Court of Tuticorin Alkalis ( 227 ITR 172) for the proposition that expenses pertaining to one year cannot be allowed in another year and made the addition.

4. The Ld. CIT(A) called for the details of expenditure and found that the appellant in fact claimed an expenditure of Rs. 46.33 crore relating to earlier years, in this assessment year and enhanced the same to Rs. 46.33 crore on two grounds, i.e. expenditure claimed in this year does not pertain to this year nor paid in this year and the second being due to applicability of section 43B, i.e., the amount claimed as expenditure was not paid in this year hence not allowed.

5. The Ld. AR of the appellant has argued before ITAT that this system of accounting is in consonance with the recognized accounting standards. Since the expenditure was crystallised during this year, the same was claimed in this year.

6. The Ld. DR filed written submission stating almost what was mentioned in the orders of Ld. AO and Ld. CIT(A).

7. Heard both sides. On the day of hearing, Ld. AR and Ld. DR were asked to file written submission. The Ld. AR of the appellant argued that in view of recognised accounting standards and as the expenditure which was capitalized in earlier years was claimed as Revenue expenditure during this year. The Ld. AR of the appellant has filed written submission in which it was stated that (page 3, para 2.2.2) the Ld. CIT(A) has not considered the detailed submissions made before him vide letters dated 24.12.2010 and 27.12.2010 and passed the order. The Ld. AR filed a paper book, in which a copy of submissions made before Ld. CIT(A), was enclosed. It was also submitted that the appellant's submission that the expenditure is allowable under section 37 w.r.s. 36(1)(iii), was also not considered by Ld. CIT(A). the Ld. AR of the appellant also relied on several cases-law. But the fact remains that the submissions made by appellant before Ld. CIT(A) were not considered and hence the issue of 'prior period expenses' is remitted back to the file of Ld. CIT(A) with a direction that he should take all arguments of appellant and decide the matter afresh.

8. The second issue relates to disallowance under section 14A r.w. Rule 8D of the I.T. Rules. The Ld. AO has mentioned that the appellant did not object for the disallowance vide letter dated 27.12.2010, but the computation given by appellant is erroneous. Hence, the Ld. AO computed the disallowance under Rule 8D of I.T. Rules. The Ld. CIT(A) confirmed the disallowance.

9. Aggrieved by the disallowance under Rule 8D, the appellant has submitted that where there is no exempt income, disallowance under section 14A read with Rule 8D cannot be made and relied on the following decisions:

- PCIT Vs. Oil Industry Development Board (103 Taxman.com 326)(Supreme Court)
- PCIT Vs. Kohinoor Projects(P) Ltd. (121 Taxman.com 177)(Bom)

10. Respectfully following the decisions of Hon'ble Supreme Court and jurisdictional High Court, the addition made by Ld. AO in regard to disallowance under section 14A is deleted.

11. The appeal of appellant is partly allowed as above.

Order pronounced in the open Court on 08/10/2025.

Sd/-  
(NARENDER KUMAR CHOUDHRY)  
JUDICIAL MEMBER

Sd/-  
(OMKARESHWAR CHIDARA)  
ACCOUNTANT MEMBER

Copy of the Order forwarded to :

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

//True Copy//

PS

BY ORDER,  
(Assistant Registrar)  
ITAT, Mumbai