

IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'SMC' BENCH,
NEW DELHI [THROUGH VIDEO CONFERENCE]

BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER

ITA No. 4820/DEL/2019
[Assessment Year: 2014-15]

Avonmore Capital & Management
Services Ltd.
3, Scindia House, 2nd Floor,
Connaught Place, Janpath,
New Delhi

Vs.

The Dy. C.I.T
Circle - 3(2)
New Delhi

PAN: AABCA 0478 N

[Appellant]

[Respondent]

Date of Hearing : 15.09.2021
Date of Pronouncement : 15.09.2021

Assessee by : Ms. Ranu Jain, Advocate

Revenue by : Shri R.K. Gupta, Sr. DR

ORDER

PER N.K. BILLAIYA, ACCOUNTANT MEMBER:

This appeal by the assessee is preferred against the order of the Commissioner of Income Tax [Appeals] - I, New Delhi dated 29.03.2019 pertaining to assessment year 2014-15.

2. The sum and substance of the grievance of the assessee is that the Id CIT(A) erred in confirming the addition made by the Assessing Officer on account of disallowance made u/s 14A of the Income-tax Act, 1961 [hereinafter referred to as 'The Act'] for computing the book profit under section 115JB of the Act.

3. Briefly stated the facts of the case are that by way of an order dated 14.09.2017, the Assessing Officer invoked the provisions of section 154 of the Act. Reasons, which prompted the Assessing Officer to rectify the mistake apparent from record is that in its computation of income, the assessee had added a sum of Rs. 22,48,459/- u/s 14A under normal provisions of the Act. Since the same was not offered for calculation of book profit under MAT provision, the Assessing Officer was of the opinion that this mistake resulted in under assessment of book profit under MAT provision and, accordingly, made addition of Rs. 22,48,459/- for computing book profit under MAT provision.

4. The assessee agitated the matter before the Id. CIT(A) and strongly contended that any disallowance made u/s 14A of the Act is not to be considered for computation of book profit and MAT provision.

5. The claim of the assessee did not find any favour with the ld. CIT(A) who confirmed the action of the Assessing Officer.

6. Before me, the ld. counsel for the assessee placed strong reliance on the decision of the Special Bench of the Tribunal in the case of Vireet Investment 82 taxmann.com 415.

7. Per contra, the ld. DR strongly relied upon the findings of the lower authorities and stated that the facts of the case are distinguishable.

8. I have given thoughtful consideration to the orders below. I find that suo moto disallowance made by the assessee in its computation of income was not considered by it while computing book profit under MAT provision. I find that the Assessing Officer has invoked the provisions of Section 154 of the Act claiming that not considering the disallowance made u/s 14A of the Act has resulted into a mistake apparent from record which is rectifiable.

9. At the very outset, I do not agree with this action of the Assessing Officer, as in my considered opinion, a debatable issue cannot be a rectifiable mistake apparent from record. Be that as it may, this issue has now been settled by the Special Bench of the Tribunal in the case of Vireet Investment [supra] wherein it has been held that computation under clause (f) of Explanation 1 to Section 115JB(2) of the Act is to be made without resorting to computation as contemplated under section 14A r.w.r 8D of the Act. On both counts, the assessee succeeds. The Assessing Officer is directed to delete the disallowance made u/s 14A of the Act from computation of book profit under MAT provision.

10. In the result the appeal of the assessee in ITA No. 4820/DEL/2019 is allowed.

The order is pronounced in the open court on 15.09.2021 in the presence of both the representatives.

Sd/-

**[N.K. BILLAIYA]
ACCOUNTANT MEMBER**

Dated: 15th September, 2021

VL/

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar,
ITAT, New Delhi

Date of dictation	15.09.2021
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr.PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr.PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	