

आयकर अपीलीय अधिकरण “ए” न्यायपीठ मुंबई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
“A” BENCH, MUMBAI

माननीय श्री विकास अवस्थी, न्यायिक सदस्य एवं
माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।
BEFORE HON’BLE SHRI VIKAS AWASTHY, JM AND
HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM
 (Hearing through Video Conferencing Mode)

आयकर अपील सं./ I.T.A. No. 1895/Mum/2020
 (निर्धारण वर्ष / Assessment Year: 2013-14)

M/s ABIL Infraprojects Pvt. Ltd. St. Regis, 33 rd floor, Senapati Bapat Marg Phoenix Mill Compound, Lower Parel, Mumbai-400 013	बनाम / Vs.	DCIT Cen. Cir – 2(3) R. No. 803, 8 th floor Old CGO Building, Pratishtha Bhavan M. K. Road, Mumbai-20
स्थायीलेखासं ./जीआइआरसं ./PAN/GIR No. AAACR-7823-H		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

Assessee by	:	Shri Anuj Kisnadwala – Ld. AR
Revenue by	:	Shri Brajendra Kumar – Ld. Sr. DR

सुनवाई की तारीख/ Date of Hearing	:	29/09/2021
घोषणा की तारीख / Date of Pronouncement	:	01/10/2021

आदेश / O R D E R

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by assessee for Assessment Year (AY) 2013-14 arises out of order of learned Commissioner of Income-Tax (Appeals)-48, Mumbai [CIT(A)], dated 07/07/2020 in the matter of assessment framed by Ld. Assessing Officer (AO) u/s 153A r.w.s. 143(3) on 25/05/2019. The only grievance of the assessee is disallowance u/s 14A.

2. Having heard rival submissions and after careful consideration of material on record, our adjudication to the subject matter of appeal would be as given in succeeding paragraphs.

3. The material facts are that the assessee being resident corporate assessee is state to be engaged as real estate developer. It earned exempt income of Rs.13.74 Lacs including exempt income from partnership firms. The assessee offered suo-moto disallowance u/s 14A for Rs.3.35 Lacs in the computation of income. The said disallowance was computed @0.5% on investment made in equity shares and preference shares. During assessment proceedings, the assessee submitted that no expenditure was incurred to earn the exempt income. However, not satisfied, Ld. AO, applying Rule 8D, compute indirect expenditure disallowance u/r 8D(2)(iii) @0.5% of average investments held by the assessee While computing the average investments, Ld. AO included the investment made in partnership firms also. The disallowance came to Rs.13.07 Lacs and after reducing suo-moto disallowance of Rs.3.35 Lacs, Ld. AO computed additional disallowance of Rs.9.72 Lacs and added the same to the income of the assessee.

4. During appellate proceedings, the assessee submitted that exempt income was received on certain mutual funds which were redeemed during the year. However, from partnership firm, the assessee's had received share of loss of Rs.4,109/- and therefore, these investments were to be excluded. However, not convinced, Ld. CIT(A) confirmed the disallowance. Aggrieved, the assessee is in further appeal before us.

5. We find that it is undisputed fact that the assessee has received loss of Rs.4,109/- from partnership firm and has not received any exempt income from the firm. It is settled legal position that to compute

disallowance u/s 14A, only those investments are to be considered which have yielded any exempt income during the year. Since the assessee has not earned any exempt income from partnership firm, the same has rightly been excluded while computing the disallowance. Therefore, the additional disallowance as computed by Ld. AO is not sustainable in law. We order so,

6. The appeal stand allowed.

Order pronounced on 1st October, 2021.

Sd/-
(Vikas Awasthy)
न्यायिक सदस्य / **Judicial Member**

Sd/-
(Manoj Kumar Aggarwal)
लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 01/10/2021
Sr.PS, Dhananjay

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त(अपील) / The CIT(A)
4. आयकरआयुक्त/ CIT– concerned
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, मुंबई/ DR, ITAT, Mumbai
6. गार्डफाईल / Guard File

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकरअपीलीयअधिकरण, मुंबई / ITAT, Mumbai.