THE INCOME TAX APPELLATE TRIBUNAL
"D" Bench, Mumbai
Shri Shamim Yahya (AM) & Shri Pavan Kumar Gadale (JM)

I.T.A. No. 5850/Mum/2019 (Assessment Year 2012-13)

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| Mehta Equities Ltd.<br>612, 6th Floor<br>Arun Chambers<br>Near AC Market<br>Tardeo Main Road<br>Mumbai-400 043.<br><br>PAN : AAACR4143C | Vs. | DCIT-4(2)(2)<br>Aayakar Bhavan<br>M.K. Road<br>Churchgate<br>Mumbai-400 020. |
| (Appellant) | | (Respondent) |

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| Assessee by | Shri Rajeev Khandelwal |
| Department by | Shri Akhtar Ansari |
| Date of Hearing | 14.09.2020 |
| Date of Pronouncement | 14.10.2020 |

O R D E R

Per Shamim Yahya (AM) :-

The appeal by the assessee is directed against the order of Learned Commissioner of Income Tax (Appeals) [in short learned CIT(A)] dated 2.8.2019 pertains to A.Y. 2012-13.

2. The grounds of appeal read as under :-

1. The Commissioner of Income-tax (Appeals)-2, Mumbai (hereinafter referred to as the CIT(A)) erred in upholding the action of the Deputy Commissioner of Income-tax-4(2)(2), Mumbai (hereinafter referred to as the Assessing Officer) in disallowing a sum of Rs 2,36,733 by invoking the provisions of section 14A read with Rule 8D(2)(iii).

   The appellants contend that on the facts and in the circumstances of the case and in law, the CIT(A) ought not to have upheld the action of the Assessing Officer in disallowing the impugned sum of Rs 2,36,733 inasmuch as the same is not in accordance with the prescription of section 14A read with Rule 8D(2)(iii).

2. The CIT(A) erred in upholding the action of the Assessing Officer in making an addition of a sum of Rs 44,589; being interest income on account of non-reconciliation of AIR.

The appellants contend that on the facts and in the circumstances of the case and in law, the CIT(A) ought not to have upheld the action of the Assessing Officer inasmuch as the CIT(A) and the Assessing Officer have not correctly appreciated the facts of the case in its entirety and hence, the impugned addition requires to be deleted.

3. The CIT(A) erred in upholding the action of the Assessing Officer in making a disallowance of Rs 5,00,000 under section 36(l)(ii) of the Act; being bonus paid to the Directors of the Company by holding that such payments are in lieu of dividend or profits.

The appellants contend that on the facts and in the circumstances of the case and in law, the CIT(A) ought not to have upheld the action of the Assessing Officer inasmuch as the CIT(A) and the Assessing Officer have not correctly appreciated the facts of the case in its entirety and hence, the impugned disallowance requires to be deleted.

3. Brief facts of the case are that the assessee-company is engaged in the business of a stock/share broker, Depository participant. The appellant had filed its Return of Income on 21/09/2012 declaring total income of Rs.52,72,893/-. Assessment u/s.143(3) was completed on 16.03.2015 determining total income at Rs.91,73,980/- by making the following disallowances:-

i. Disallowance u/s 14A of Rs. 15,19,159/-.
ii. Disallowance of depreciation and motor car expenses of Rs. 18,05,062/-.
iii. AIR discrepancy Rs. 44,598/-.
iv. Disallowance of expenses incurred for LTCG of Rs. 32,275/-.
v. Disallowance u/s 36(l)(ii) of Rs. 5,00,000/-.

Book profit was computed at Rs. 30,57,854 u/s. 115JB of the Act by making addition of Rs. 15,19,159/-u/s 14A.

4. Upon assessee's appeal learned CIT(A) granted relief on several issues. Issues which have travelled to the ITAT are with relation to the following :-

i) Disallowance u/s. 14A : Rs. 2,36,733/-
ii) Non reconciliation AIR : Rs. 44,589/-
iii) Disallowance of bonus to directors : Rs. 5,00,000/-

5. Apropos ground No. 1 :

The Assessing Officer made disallowance u/s. 14A read with Rule 8D of an amount of Rs. 15,19,159/-.

6. Upon assessee's appeal learned CIT(A) granted considerable relief by holding as under :-

> "The assessee has received exempt dividend of Rs. 3,99,270/-. The AO has computed disallowance out of interest expenditure under rule 8D(2)(ii) at Rs. 12,82,425/-. I find that the own funds/share holder fund are to the tune of Rs. 16.58 crores as on 1.04.2011 and of Rs. 16.70 crores as on 31.03.2012 as against the investment in shares and securities and units of mutual funds shown under the head "non-current investments " at Rs 7.19 crores. The appellant has borrowed funds to the tune of Rs. 3.91 crores as on 31.3.2012. Thus, the appellant is having mixed funds. Since the own funds/shareholders' funds are more than investments, the presumption would be that the investments have been purchased out of own funds and that borrowed funds have not been utilised for the purchase of such investments and hence, disallowance of interest under rule 8D(2)(ii) of Rs. 12,82,425/- is found to be not justified and is deleted. Reliance is place on the following decisions-
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> (i) CIT v HDFC Bank Ltd reported in 366 ITR 505 (Bom)
> (ii) CIT v Reliance Industries Ltd (Civil appeal No. 10 of 2019)(SC)
> (iii) CIT v Reliance Utilities & Power Ltd reported in 313 ITR 340 (Bom)
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> The AO has computed disallowance of expenditure under rule 8D(2)(iii) at Rs. 236,733 @ 0.5% of the average value of investment. The appellant has submitted that major expenses have been incurred under the head employee expenses and other expenses which have been incurred for the purpose of appellant's business of share broking and depository participant. In this regard, I find that the appellant is a company and some expenses would be attributable, out of the expenses under the head employee benefit and other expenses relating to the running of office establishment directors remuneration, towards earning of exempt dividend income. Since the management, the related staff and establishment would be involved in the decision making regarding the investment to be made and held, disallowance of expenditure under rule 8D(2)(iii) amounting to Rs. 236,733/- which is less than the exempt dividend income is found to be in order and is upheld.
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> In view of the above discussion, the disallowance of Rs. 15,19,159/- made by the AO u/s 14A rw rule 8D is restricted to Rs. 236,733/-. The AO is directed to allow relief accordingly."

7. Against the above order the assessee is in appeal before us.

8. We have heard both the counsel and perused the records. We find that the issue under consideration is disallowance of Rs. 2,36,733/- under Rule

8D(2)(iii) of section 14A of the I.T. Act. This has been computed at 0.5% of the average value of investment. The assessee has earned exempt dividend income of Rs. 3,99,270/-, investments are to the tune of Rs. 7,19,48,649/- as on 31.3.2012 opening investment as on 1.4.2011 of Rs. 2,27,44,669/-. The average value of investment was Rs. 4,73,46,659/-.

9. Learned Counsel of the assessee's sole objection in this regard is that the assessee has not incurred any administrative expenses and that the Assessing Officer has not recorded his satisfaction in this regard.

10. Upon careful consideration, we find that the Assessing Officer in his order has noted that the assessee upon inquiry regarding expenditure incurred for earning exempt income has submitted that the assessee has not incurred any expenses directly in this regard. Here it is amply clear that the assessee before the Assessing Officer has himself admitted that no direct expenses are incurred which shows that the assessee is shying away from elaborating upon indirect expenses incurred in this regard. Admittedly when the expenses are indirect in nature computation mechanism of Rule 8D(3) of section 14A becomes operative unless otherwise detailed by the assessee to the satisfaction of the Assessing Officer.

11. As regards learned Counsel of the assessee's objection that there is absence of satisfaction recorded by the Assessing Officer, we note that the Assessing Officer in para 4.2.3 has categorically stated that "Hence, having regard to the accounts of the assessee-company, I am satisfied that the claim of the assessee in respect of expenditure in relation to income which does not form part of the total income under the Income Tax Act, 1961 is not correct." Hence, the plea that the Assessing Officer has not recorded any satisfaction regarding assessee's claim fails and in this view of the matter the case laws referred by learned Counsel of the assessee for the proposition that the disallowance in this regard on the touchstone of Rule 8D would fails in the absence of necessary satisfaction by the Assessing Officer are not applicable,

in as much as satisfaction of the Assessing Officer is very much evident in the assessment order. Accordingly, this limb of claim of learned Counsel of the assessee's argument is not correct. However, we note that the exempt income earned is only Rs. 3,99,270/- and the disallowance for administrative expenses incurred in this regard is Rs. 2,36,733/-. This at glance is not in accordance with principles of proportionality. Hence, we remit this issue to the file of the Assessing Officer with the direction to assessee to submit its details of direct and indirect expenses which has been incurred in incurring exempt income. The Assessing Officer shall record his satisfaction or otherwise with the computation of the assessee and thereafter decide the issue as per law.

12. Apropos issue No. 2

Brief facts of this issue are as under :-

The Assessing Officer made an addition of Rs 43,254 and Rs 1,335 aggregating Rs 44,589 being the interest income reflected in the AIR information not credited in the profit and loss account. The interest income reflected in AIR Information from IL & FS Securities Services Ltd is Rs 69,588 and Bombay Stock Exchange Ltd is Rs 1,335/- on which Tax Deducted at Source is Rs 6,958/- and 133/-, respectively. The assessee in its profit and loss account have credited interest income of Rs. 26,334/- from IL&FS Securities Services Ltd and have claimed Tax Deducted at Source of Rs 1,422/-. The assessee has filed with the Assessing Officer reconciliation statement of Tax Deducted at Source claimed in the return of income vis-a-vis Tax Deducted at Source per AIR Information.

13. Before learned CIT, the assessee contended that the balance interest income of Rs 43,254 (Rs 69,588 - Rs 26,334) from IL&FS Securities Services Ltd. and interest income of Rs 1,335 from Bombay Stock Exchange Ltd has not been received by the appellants in the year under reference or in subsequent years. Further, it was submitted that the assessee has not

claimed the credit of Tax Deducted at Source reflected in the AIR Information.

14. However, learned CIT was not convinced. He upheld the addition by holding as under :-

> "I have considered the AO's order, and the submission made by the appellant and details filed. The appellant has submitted that it has offered interest income of Rs. 26,334/- from IL 8& FS and has claimed TDS of Rs. 1422/- against the said income and the balance interest income from IL 85 FS and BSE was not received. I find that, the appellant has not submitted any material on the basis of which it can be held that the amount shown as income from IL 85 FS and BSE Ltd. did not accrue to the appellant and the said difference was on account of some error by those parties. Accordingly, the addition made by the AO of Rs. 44,589/- is upheld."

15. Against the above order assessee has filed appeal before us.

16. The submission of learned Counsel of the assessee is that the said income did not belong to the assessee and it was mistake on the part of IL&FS Securities Ltd. to show the above sum as income of the assessee. However, we note that this contention was not made before the Assessing Officer nor the assessee had asked the Assessing Officer to issue/make any inquiry from the concerned entity. Hence, in our considered opinion interest of justice will be served if the matter is remitted to the file of the Assessing Officer. The Assessing Officer is directed to examine the assessee's plea that the said income reflected in AIR information is wrong in as much as some does not belong to the assessee.

17. <u>Apropos issue No. 3</u>

The disallowance u/s 36(l)(ii) of Rs. 5,00,000/-. Brief facts on this issue are that the AO has observed in the assessment order that the assessee has paid Rs. 250,000/- each as bonus and incentive to Mrs. Nidhi R Mehta and Mr. Rakesh Mehta, apart from payment made to them as director's remuneration. The AO has disallowed the above said payment of bonus aggregating to Rs. 5,00,000/- u/s 36(l)(ii) of the Act, considering that

the company was having more than 1 crore of profits which could have been distributed amongst the shareholders in the form of dividend. The said two directors held shares of the assessee company and said amount of Rs. 2.5 lakhs each, if not paid to them as bonus, was payable as dividend to the two shareholders. The AO has relied on the decision of the ITAT, Mumbai Special Bench in the case of M/s Dalai Broacha Stock Broking Pvt. Ltd. 131 ITD 36.

18. The learned CIT(A) noted assessee's pleas as under :-

> "The Assessing Officer has made a disallowance of a sum of Rs 5,00,000, being bonus of Rs 2,50,000 each paid to the directors, Mrs. Nidhi Mehta and Mr. Rakesh Mehta, by invoking the provisions of section 36(l)(ii), holding that such payment of bonus are in lieu of dividends and further, held that such payments are made to reduce the tax liability of the appellants.
>
> The appellants contend that the Assessing ought not to have made the disallowance inasmuch as the income of said directors fall in the maximum tax bracket of 30%, which is same as the tax rate applicable for the appellant-company, thus, there can be no allegation of any tax benefit/ any reduction of tax liability - refer acknowledgement evidencing filing of return of income together with computation of income of both the Directors and Form 16 given by the appellants to justify that due taxes have been paid by the directors -refer page nos57 to 73.
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> Thus, the appellants contend that when there is no revenue leakage the Assessing Officer ought not to have made the impugned disallowance. Reliance is placed on the decision of Arihantamlnfra projects (P.) Ltd v. Jt. CIT reported in 64 taxmann.com 404 (Pune - Tribunal)."

19. However, learned CIT(A) was not convinced. He held as under :-

> "I have considered the A.O's order and the submissions made by the appellant and the details filed. I find that the above said two directors held 94.76% of the shares between them i.e. Rakesh Mehta held 46.79% and Nidhi Mehta held 47.97% of shares of the company as on 31.03.2012. The appellant company clearly falls under the provision of section 36(1)(ii) which does not allow a deduction of amount paid as bonus to an employee who are shareholders and such amount, if not paid as bonus would have been payable as dividend to them. Reliance is placed on the decision of Hon'ble Mumbai Spl. Bench in the case of M/s Dalai & Broacha Stock Broking Pvt. Ltd. 131 ITD 36 which is exactly on this issue and similar disallowance of payment of commission to shareholders employee u/s 36(l)(ii) was upheld in this case by making following observations:-
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> > "The provision of section 36(1)(ii) can be split into two parts. The first part viz," "any sum paid to an employee as bonus or commission for

> services rendered" is an enabling provision. This part applies to all employees. The second part is a disabling provision which provides that "if the sum so paid is in lieu of profit or dividend" it cannot be allowed as dividend. This part applies only to employees who are partners or shareholders. Thus, in so far allowability of expenditure on account of bonus or commission u/s 36(l)(ii) is concerned, it applies to all employees including shareholder employee. The disallowability is restricted to only partners and shareholders as only in those cases, payment could be in lieu of profit or dividend. We therefore, reject the argument advanced by the Ld. AR that the provision of section 36(l)(ii) apply only to non-share employee. –
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> In view of the foregoing discussion and the for the reason given earlier, we are of the view that the payment of commission of Rs. 1.20 crores to the three working directors was in lieu of dividend and the same is not allowable as deduction u/s 36(1)(ii). We answer the reference accordingly.
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> In view of above discussion, the addition of Rs. 5,00,000/-made u/s 36(l)(ii) of the Act is upheld and ground no. 5 is dismissed."

20. Against the above order the assessee is in appeal before us.

21. We have heard both the counsel and perused the records. Learned Counsel of the assessee submitted that the assessee has duly paid bonus to its directors shareholders. That there is no law that the assessee-company can be forced to pay dividend. However, learned Counsel of the assessee could not make cogent submission regarding the applicability of the provisions of section 36(1)(ii) as to whether the impugned sum would have been falling under the realm of dividend. In this regard we note authorities below have relied upon the ITAT Special Bench decision in the case of M/s Dalai & Broacha Stock Broking Pvt. Ltd. (131 ITD 36). The Assessing Officer has quoted also from Hon'ble Bombay High Court decision in the case of Loyal Motor Service Co. Ltd. Vs. CIT (14 ITR 647). The paragraph quoted by the Assessing Officer from Special bench decision is as under :-

> 'The object behind the provisions of section 36(1)(ii) is to allow deduction on account of any expenditure on account of payment of bonus or commission lo an employee even if the said payment is made out of profits of the assessee subject to the conditions mentioned in the section. This is an enabling provision which allows deduction on account of bonus or commission to employees. The reasonableness of payment or adequacy of services rendered

by the employees is not relevant factors in deciding the allowabiliiy of deduction. The section allows deduction if the expenditure is

i) on account of bonus or commission:
ii) is paid to an employee:
iii) for services rendered and
iv) is not in lien of payment of dividend.

The provisions of section 36(1)(ii) cover only the ease of expenditure on account of bonus or commission paid to an employee. Any expenditure, incurred on account of payment of commission lo a person who is not an employee is not covered by the said provision. Such cases of expenditure on account of commission to non employees will be governed by the provisions of section 37(1) which allow deduction on account of any expenditure which is incurred wholly and exclusively for the purpose of business subject to certain conditions:

The criteria of "wholly and exclusively" is not relevant while considering deduction under section 36(1)(ii). The payment may he made out of commercial expediency which should be fudged in the light of current socio economic thinking which encourages employers to share a part of the profits with the employees as held by Hon'ble Supreme Court in the case of Shazada Nand & Sons (108 1TR 358) while dealing with the provisions of section 36(l)(ii). The relevant portion of the judgment is reproduced below:

" .... What is the requirement of commercial expediency must be judged, not in the light of the. 19th century laissez faire doctrine which regarded man as an economic being concerned only to protect and advance his self interest. but in the context of current socio-economic thinking which places the general interest of the community above the persona! interest of the individual and believes that a business or undertaking is the product of the combined efforts of the employer and the employees and where there is sufficiently large profit, after providing far the salary or remuneration of the employer and the employees and other prior charges such as interest on capital, depreciation, reserves, etc., a part of it should in all fairness go to the employees... "

The Id. Authorised Representative for the assessee argued that provisions of section 36(1)(ii) are applicable only in the case of employees who are not share holders. His argument was that the provision is not applicable when the payment of commission is in lieu of dividend and since dividend is payable only in the case of share holders, the provisions will not be applicable in case of share holder employees: We are unable to accept such argument which can he relevant only when the payment of dividend to shareholders is compulsory. It is an undisputed fact that payment of dividend by a company is not compulsory and it is dependent upon the profitability and other conditions of the business. Therefore, in cases where dividend is not payable, the payment of ban its or commission can be allowed as deduction in case of employee share holders also under section 36(1)(ii) as in that case it could not be said that payment of bonus or commission is in

lieu of dividend. Thus the provisions of section 36(1)(ii) are aw applicable to share holder employees subject to the condition that payment is not made in lieu of dividend. The provisions of section 36(1 l(ii) can be split into two parts. The first part viz., "any sum paid to an employee as bonus or commission for services rendered" is an enabling provision. This pun applies to all employees. The second part is a disabling provision which provides that "if the sum so paid is in lieu of profit or dividend." It cannot be allowed as deduction. This part applies only 10 employees who are partners or shareholders. Thus, in so Jar allowability of expenditure on account of bonus or commission under section 36(1)(ii) is concerned, it applies to all employees including shareholder employees. The disallowability is restricted to only partners and shareholders as only in those cases, payment could be in lieu of profit or dividend. We therefore, reject the arguments advanced by the Id AR that the provisions of section 36(1)(ii) apply only to non shareholder employees.

In view of the foregoing discussion and for the reasons given earlier, we are of the view that the payment of commission of Rs. 1.20 crores to the three working directors was in of dividend and the same is not allowable as deduction under section 36(1)(ii). We answer the reference accordingly.

22. The paragraph quoted by the Assessing Officer from Hon'ble Bombay High Court in the case of Loyal Motor Service Co. Ltd. Vs Commissioner of Income Tax (14 ITR 647) is as under :-

"In my opinion, that construction of the clause is not correct. The word "such" must refer to what had been previously mentioned in the same clause in connection with the word "sum". To find that out we must look lo the first part of the clause. That refers to "any" .sum. Reading the clause in that way the, plain meaning appeal's to be that when a particular amount was paid by way of bonus lo an employee, if the same amount would have been paid lo him as a shareholder ax dividend or profit, the company cannot be allowed a deduction on the ground of payment of bonus. To put it in other words the clause is intended to prevent an escape from taxation by describing a payment as bonus, when in fad ordinarily it should have reached the shareholder as profit or dividend. These arguments would be equally applicable in the case of a partnership as in the case of a limited company. This construction I etuis to no hardship, it does not allow a wrong payment of bonus lo escape taxation. An illustration will perhaps make the position clear. Five, persons in a firm realizing that the profits of the year were Rs.50,000 and they had an equal share in the profits of the business decide that instead of receiving Rs. 10,000 each as the share of profits each of them will be paid Rs. 10,000 as bonus or commission. In such a case the firm, when sough to be assessed, may contend that Rs. 10,000 were paid as bonus. The contention will be clearly rejected. "........It seems to me that the plain reading of the clause means that the profits of a business will not be allowed to be dwindled by merely describing the payment ax bonus, if the payment is in lieu of dividend or profit."

23. In this regard we note that in the decision of Loyal Motor Service Co. Ltd. (supra), Hon'ble Bombay High Court has actually allowed payment of bonus to the employees shareholders under the extant provision of old Act which is 10(2)(x), which is pari materia to section 36(1)(ii) of the I.T. Act, 1961. Passage quoted by the Assessing Officer in his order has been lifted from concurring judgment of Hon'ble Pania J who has in conclusion agreed with the view of Hon'ble Chief Justice K.L. Stone that whole of sum of bonus payable to shareholder employee in that case was allowable as deduction under the provisions of section 10(2)(x). We note that Hon'ble Supreme Court in the case of CIT Vs. Sun Engineering Work Pvt. Ltd. (198 ITR 297 (SC) has expounded that quoting lines from the decisions dehorse its context is not permissible. We further note that the decision of Special bench in the case of Dalai & Broacha Stock Broking Pvt. Ltd. (supra) quoted by the Assessing Officer is also only paragraph/passage of the said judgement. The said Judgement of Special Bench was based upon categorical finding that it was a tax evasion/tax avoidance scheme adopted by the assessee in that case. For this purpose we may quote following observation in the said judgement :-

> "There is obvious tax avoidance. In case dividend is paid, the tax payable at the rate of 35.75% in case of a company on the amount of Rs.1.20 crores comes to Rs.42.90 lacs and in that case the company would have also to pay dividend distribution tax @12.5% which comes to Rs.15.00 lacs. The total tax payment in case of dividend payment would come to Rs.57.90 lacs whereas in case commission was paid, the tax payable comes to Rs.39.60 lacs. There is thus tax avoidance of Rs. 18.30 lacs. The provisions of section 36(1)(ii) are intended to prevent an escape from taxation by describing the payment as bonus or commission when in fact ordinarily it should have reached the shareholders as profit or dividend as held by the Hon'ble High Court of Bombay in the case of Loyal Motor Service Company Ltd. (supra). In this case we are convinced in view of the discussion made earlier that it is a case of paying commission which was otherwise payable as dividend, to escape taxation".

24. We note that section 36(1)(ii) provides for allowability :-

> "36. (1) The deductions provided for in the following clauses shall be allowed in respect of the matters dealt with therein, in computing the income referred to in section 28 :-

> (*ii*) any sum paid to an employee as bonus or commission for services rendered, where such sum would not have been payable to him as profits or dividend if it had not been paid as bonus or commission".

Though we note that though in the said decision of Special Bench has clearly held that section 36(1)(ii) does not envisage examination about the reasonableness of payment or adequacy of services rendered by the employees as the same were held by the Special bench to be relevant factor in deciding the allowability of deduction. However as noted by us above Special Bench has clearly given a categorical finding that there was a case of tax evasion/avoidance and in those fact the Special bench has quantified the amount of tax avoidance involved also.

25. Hence on the touchstone of the aforesaid decision we are of the considered opinion that the Assessing Officer in this case if he wants to invoke provisions of section 36(1)(ii) on the touchstone of the above Special Bench decision, will have to give clear cut finding as to what was tax avoidance or tax evasion involved in this case. For this purpose the Assessing Officer will need to examine the amount of dividend which the assessee-company would have declared under the provisions of relevant payment of dividend as per the Company's Act. He shall also compute tax sought to be avoided by the assessee company by the so called scheme of the company.

26. Furthermore, in this regard the decision of Hon'ble Supreme Court in the case of Excel Industries Ltd. (38 Taxman 100 (SC) is also relevant here. In the said case Hon'ble Supreme Court has expounded that if the tax effect is revenue neutral, the proposition need not be disturbed. Here Assessing Officer shall examine the assessee's submission that both the share holder directors or owners of the company have filed their individual return and have been taxed at the highest bracket in the context of this Hon'ble Supreme Court decision. So the tax impact and the emerging tax neutrality if any, needs to be evaluated on the touchstone of this decision also. The claim in this regard was duly submitted, as noted by learned CIT(A) himself in his order.

27. Accordingly, in the background of the aforesaid discussion and precedent we set aside the issue of allowability of payment of bonus to the director shareholders in accordance with our direction and the decisions quoted above. Needless to so add the assessee should be given adequate opportunity of being heard.

28. In the result, this appeal by the assessee is partly allowed for statistical purposes.

Order pronounced under Rule 34(4) of the ITAT Rules on 14.10.2020.

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| Sd/- | Sd/- |
| (PAVAN KUMAR GADALE) | (SHAMIM YAHYA) |
| JUDICIAL MEMBER | ACCOUNTANT MEMBER |

Mumbai; Dated : 14/10/2020

Copy of the Order forwarded to :

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

BY ORDER,

//True Copy//

(Assistant Registrar)
ITAT, Mumbai

*PS*