

IN THE INCOME TAX APPELLATE TRIBUNAL  
KOLKATA BENCH 'D', KOLKATA

[Before Shri P.M. Jagtap, AM & Shri S.S. Viswanethra Ravi, JM]

IT(SS) Nos. 106 to 109/Kol/2016  
Assessment Years: 2010-11 to 2013-14

*A.C.I.T. CIR 1(1).....Appellant*  
*Aayakar Bhawan Poorva,*  
*110, Shantipally, 3<sup>rd</sup> Floor,*  
*Kolkata - 700 107.*

*M/s. Ridhi Portfolion (P) Ltd.....Respondent*  
*Ramkrishna Chambers,*  
*72, Shakespeare Sarani,*  
*Kolkata - 700 017.*  
*[PAN No. AABCB 0768 L]*

**Appearances by:**

*Shri A.K. Tiwari, CIT appearing on behalf of the Revenue.*

*Shri Sunil Surana, Advocate appearing on behalf of the Assessee.*

Date of concluding the hearing : February 13, 2018

Date of pronouncing the order : February 16, 2018

**ORDER**

**PER BENCH**

These four appeals are preferred by the revenue against the four separate orders passed by the Ld. CIT (Appeals) all dated 27<sup>th</sup> July, 2016 for A.Y. 2010-11, 2011-12, 2012-13 and 2013-14 and since a common issue involved therein, the same have been heard together and are being disposed of by a single consolidated order.

2. The solitary common issue involved in these four appeals of the revenue relates to the deletion by the Ld. CIT(A) of the addition made by the A.O. on account of disallowance of expenditure under section 14A while computing the book profit of the assessee company under section 115JB of the Income Tax Act, 1961.

3. The assessee in the present case is a non-banking financial company. A search and seizure action under section 132 was conducted in its case on 13.12.2012. Pursuant to the said action, notices vide issued by the A.O. u/s 153A in response to which the returns of income for the years under consideration were duly filed by the assessee. In the said returns, disallowance under section 14A read with Rule 8D was offered by the assessee suo moto on account of expenditure incurred in relation to the exempt income while computing its income under the normal provisions of the Act for all the four years under consideration. The said disallowance however was not added back by the assessee company while computing its book profit under section 115JB of the Act for all the four years under consideration. In the assessments completed under section 143(3)/153A for all the four years under consideration vide orders dated 31.03.2015, the A.O. added back the amount of disallowance made under section 14A while computing the book profit of the assessee company under section 115JB for all the four years under consideration.

4. Against the orders passed by the A.O. under section 143(3)/153A for all the four years under consideration, appeals were preferred by the assessee company before the Ld. CIT(A) challenging the addition made by the A.O. on account of disallowance under section 14A while computing the book profit under section 115JB and after considering the submissions made by the assessee as well as the material available on record, the Ld. CIT(A) deleted the said addition made by the A.O. while computing the book profit of the assessee company under section 115JB for all the four years under

consideration relying on the decisions of the Mumbai Bench of this Tribunal in the case of ACIT vs Spray Engineering Devices Ltd. ITA No. 6487/Mum/2004. Aggrieved by the orders of the Ld. CIT(A) giving this relief to the assessee, the revenue has preferred these appeals before the Tribunal.

5. We have heard the arguments of both the sides and also perused the relevant material available on record. It is observed that a similar issue relating to addition on account of expenditure disallowed under section 14A while computing book profit under section 115JB of the Act has been decided by the Special Bench of this Tribunal at Delhi in the case of ACIT vs Vireet Investment Pvt. Ltd. (ITA No. 502/Del/2012 dated 16.06.2017) wherein it was held that the expenditure incurred to earn exempt income computed under section 14A of the Act could not be added while computing book profit under section 115JB of the Act. In the case of CIT vs Jayshree Tea Industries Ltd. (ITAT No. 47 of 2014 dated 19.11.2014), Hon'ble Kolkata High Court has also expressed a similar view by holding that the provision of section 115JB in the matter of computation is a complete code in itself and resort need not and cannot be made to section 14A of the Act. Hon'ble Kolkata High Court has further held that the computation of the amount of expenditure relatable to exempt income of the assessee must be made independently by applying clause (f) of Explanation (1) under section 115JB of the Act where the assessee has not claimed such expenditure to be nil. Respectfully following the said decision of the Hon'ble Jurisdictional High Court in the case of Jayshree Tea Industries Ltd. (supra), we set aside the impugned orders of the Ld. CIT(A) on this issue and restore

the matter to the file of the A.O. for computing the amount of expenditure relatable to the exempted income of the assessee independently for all the four years under consideration by applying clause (f) of Explanation (1) under section 115JB of the Act without resorting to section 14A or Rule 8D.

**6. In the result, all the four appeals of the Revenue are partly allowed.**

Order Pronounced in the Open Court on 16<sup>th</sup> February, 2018.

Sd/-

(S.S. Viswanethra Ravi)  
JUDICIAL MEMBER

Sd/-

(P.M. Jagtap)  
ACCOUNTANT MEMBER

**Dated: 16/02/2018**

Biswajit, Sr. PS

Copy of order forwarded to:

1. M/s. Ridhi Portfolio (P) Ltd., Ramkrishna Chambers, 72, Shakespear Sarani, Kolkata – 700 017.
2. DCIT, Circle – 1(1), Aayakar Bhawan Poorva, 110, Shantipally, 3<sup>rd</sup> Floor, Kolkata – 700
3. The CIT(A)
4. The CIT
5. DR

True Copy,

By order,

Sr. P.S. / H.O.O.  
ITAT, Kolkata