

**IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'A' BENCH,  
NEW DELHI**

**BEFORE SHRI SAKTIJIT DEY, VICE PRESIDENT, AND  
SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER**

**ITA No. 7805/DEL/2019 [A.Y. 2016-17]**

**The A.C.I.T.  
Central Circle - 1  
Ward - 3(1)  
New Delhi**

**Vs.**

**M/s Sahara India Financial  
Corporation Ltd  
1, Sahara India Bhawan  
1, Kapoorthala Complex,  
Aliganj, Lucknow**

**PAN - AADCS 8698 C**

**(Applicant)**

**(Respondent)**

**Assessee By : Shri Aditya Vohra, Adv  
Shri Arpit Goel, CA**

**Department By : Shri Kanv Bali, Sr. DR**

**Date of Hearing : 21.12.2024  
Date of Pronouncement : 02.01.2024**

**ORDER**

**PER N.K. BILLAIYA, ACCOUNTANT MEMBER:-**

This appeal by the Revenue is preferred against the order of the  
ld. CIT(A) - 23, New Delhi dated 12.07.2019 pertaining to A.Y. 2016-17.

2. The Revenue has raised as many as 6 grounds of appeal.
3. Ground No. 1 is of general in nature and needs no separate adjudication.
4. Ground No. 2 relates to the deletion of addition of Rs. 1,24,12,036/- on account of disallowance of claim of deduction u/s 35AC of the Income-tax Act, 1961 [the Act, for short].
5. While scrutinizing the return of income, the Assessing Officer noticed that the assessee has claimed deduction u/s 35AC of the Act amounting to Rs. 1,24,12,036/-. The Assessing Officer observed that the assessee has not brought on record details/necessary evidences for being eligible to claim such deduction. Therefore, the assessee was show caused to justify its claim of deduction.
6. The assessee filed detailed reply explaining the claim. But the reply of the assessee was simply dismissed by the Assessing Officer who made addition of Rs. 1,24,12,036/-.

7. The assessee carried the matter before the Id. CIT(A) and explained that no such claim of deduction has been made u/s 35AC of the Act. It was explained that the figure of Rs. 7,92,87,036/- consists of two figures, namely, provision no longer required on equity shares of Pipavav Defence & Offshore shares Rs. 6,68,75,000/- and provision no longer required on long term investments Rs. 1,24,12,036/-.

8. It was further explained that the amount of Rs. 1,24,12,036/- represented provisions made as per Prudential Norms Direction of RBI in earlier years which has been written back as the provision made on long term investment was as per the RBI guidelines and was never claimed as a deduction from the taxable income. Therefore, write back has not been offered to tax.

9. The Id. CIT(A), after verifying the facts, came to the conclusion that there is no claim of deduction u/s 35AC of the Act. Therefore, there is no question of any disallowance or addition.

10. Before us, the Id. DR could not bring any factual error or infirmity in the findings of the Id. CIT(A).

11. On appreciation of facts brought on record, we decline to interfere. Ground No. 2 is dismissed.

12. Ground No. 3 relates to the deletion of addition of Rs. 1,43,63,802/- being interest on loans and advances.

13. During the course of scrutiny assessment proceedings and referring to the following chart:

Name	Opening Balance	Closing Balance	Interest Charge
Sahara India Commercial Corp. Ltd.	Rs. 13,84,89,156/-	NIL	NIL
Sahara India	Rs. 17,86,78,438/-	Rs. 9,15,34,8121-	NIL

Chhavi Advertising	Rs. 38,71,628/-	Rs. 56,61,232/-	NIL
Sahara India Finance & Investment Ltd.	Rs. 9,96,258/-	Rs. 8,48,850/-	NIL
Sahara Estate Hyderabad	Rs. 2,56,331/-	NIL	NIL
Sahara India Life Insurance Co. Ltd.	Rs. 43,306/-	Rs. 2,15,470/-	NIL
Sahara Net Corp. Ltd.	Rs. 52,66,840/-	Rs. 59,55,316/-	NIL
Sahara Care Ltd.	Rs. 70,652/-	Rs. 7,03,628/-	NIL
Aamby Valley Ltd.	Rs. 1,07,40,430/-	Rs. 1,19,08,155/-	NIL
Sahara Q Shop Unique Products Range Ltd.	Rs. 11,24,144/-	Rs. 16,70,889/-	NIL
<b>Total</b>	<b>Rs. 33,95,37,184/-</b>	<b>Rs. 11,96,98,352/-</b>	<b>NIL</b>

the Assessing Officer observed that the assessee has not shown interest income on the aforementioned loans and advances.

14. A show cause notice was issued to the assessee asking it to explain as to why interest @ 12% may not be imputed on the average of opening and closing loans outstanding against the aforementioned related parties.

15. The assessee filed detailed reply which did not find any favour with the Assessing Officer who proceeded by imputing interest @ 12% and made addition of Rs. 1,43,63,802/-.

16. When the matter was agitated before the Id. CIT(A), it was explained that the transactions mentioned in the chart are self explanatory and are business transactions entered into in normal course of business and are certainly not loans and advances.

17, After verifying the facts, the Id. CIT(A) was convinced with the nature of transactions resulting into outstanding balance under consideration were not loans. The Id. CIT(A) further observed that information contained in the said chart was supported by books of

account and the Assessing Officer has not pointed out any defects in the books of account. The ld. CIT(A) further observed that the Assessing Officer further erred in making addition on an imaginary income which defies basic conception of “accrue or arise” and on proper appreciation of facts, the ld. CIT(A) deleted the impugned addition.

18. Before us, the ld. counsel for the assessee vehemently stated that the ld. DR could not bring any evidence to show that the impugned amounts are loans and advances given to the sister concern.

19. On the contrary, on proper appreciation of facts, we find that the outstanding balances are outcome of business transactions and certainly not loans and advances and further, the Assessing Officer has erred in imputing an imaginary income which neither accrued nor arose to the assessee. We, therefore, decline to interfere. Ground No. 3 stands dismissed.

20. Ground No. 4 relates to the deletion of addition of Rs. 6,13,17,433/- on account of addition/disallowance u/s 14A of the Act.

21. While scrutinizing the return of income, the Assessing Officer noticed that there was huge investment under the head “Non-current investment”. Invoking the provisions of section 14A of the Act r.w.r. 8D of the ITAT Rules, the Assessing Officer computed disallowance at Rs. 6,13,17,433/-.

22. Before the Id. CIT(A), it was explained that the assessee was carrying on business of residuary non-banking company registered with RBI and in pursuance of RBI guidelines, ‘Directed Investments’ are required to be made which are “business investments’. Whatever income is accruing from these investments, the same is being offered under the head “Profits and gains of business or profession”, meaning thereby, that there is no exempt income claimed by the assessee in its return of income.

23. Before us, the Id. DR vehemently supported the findings of the Assessing Officer and placed strong reliance on the CBDT Circular and referred to the amendment brought in the Act by Finance Act, 2022.

24. Per contra, the Id. counsel for the assessee reiterated that it has not claimed any exempt income.

25. We have carefully considered the orders of the authorities below. The undisputed fact is that the assessee has not claimed any exempt income. Therefore, provisions of section 14A r.w.r 8D of the Rules are not at all applicable as held by the Hon'ble Jurisdictional High Court of Delhi in Cortech Energy 322 ITR 97.

26. In so far as applicability of amendment brought in the Statute by the Finance Act, 2022 is concerned, the Hon'ble High Court of Delhi in the case of Era Infrastructure [India] Ltd 448 ITR 674 has held that amendment by the Finance Act, 2022 to section 14A of the Act will take effect from 01.04.2022 and cannot be presumed to have retrospective effects.

27. Respectfully following the decision of the Hon'ble Jurisdictional High Court [supra], Ground No. 4 is dismissed.

28. Ground No. 5 relates to the deletion of addition of Rs. 2,72,76,707/- on account of interest income from Sahara India Commercial Corporation Ltd.



29. The basis for making this addition is that Sahara India Commercial Corporation Ltd. has shown to have paid interest of Rs. 17,36,68,046/- whereas the assessee has shown interest of Rs. 14,63,91,339/-. It was explained before the Assessing Officer that Sahara India Commercial Corporation Ltd. has shown an amount of Rs. 2.73 crores as prior period expenses and rest Rs. 14.63 crores pertains to the relevant F.Y which has been shown by the assessee as income.

30. This plea was rejected by the Assessing Officer who proceeded to make the impugned addition.

31. Before the ld. CIT(A), the assessee reiterated its claim.

32. After verifying the facts from the ledger account and after being satisfied with the entries/narrations, the ld. CIT(A) deleted the impugned addition.

33. Before us, the ld. DR could not bring any factual error in the findings of the ld. CIT(A).

34. After verifying the facts, we are of the considered view that the Assessing Officer has not properly appreciated the facts in true perspective and on proper appreciation of facts, we decline to interfere. Ground No. 5 is also dismissed.

35. In the result, the appeal of the Revenue in ITA No. 7805/DEL/2019 is dismissed.

The order is pronounced in the open court on 02.01.2024.

Sd/-

[SAKTIJIT DEY]  
VICE PRESIDENT

Sd/-

[N.K. BILLAIYA]  
ACCOUNTANT MEMBER

Dated: 02<sup>nd</sup> JANURARY, 2024

VL/

Copy forwarded to:

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

Asst. Registrar,  
ITAT, New Delhi

Date of dictation	
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	
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