IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH “B” : PUNE

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
DR. DIPAK P. RIPOTE, ACCOUNTANT MEMBER

ITA.No.101/PUN./2022
Assessment Year 2010-2011

Y.G. Capital Limited, 10th Floor, Gold Crest, NS Road No.10, JVPD Scheme, Vile Parle (W), Mumbai – 400 049 Maharashtra. PAN AAACW2279E	vs.	The ACIT, Central Circle 1, Aaykar Sadan, Bodhi Towers, 713, 548/2B, Salisbury Park, Gultekdi, Pune – 411 037 Maharashtra.
(Appellant)		(Respondent)

For Assessee :	-None-
For Revenue :	Shri M.G. Jasnani

Date of Hearing :	20.12.2022
Date of Pronouncement :	05.01.2023

ORDER

PER SATBEER SINGH GODARA, J.M.

This assessee’s appeal for assessment year 2010-2011, arises against the CIT(A), Pune-12, Pune's order dated 28.12.2021, in Din & Order No.ITBA/APL/S/250/ 2021-22/1038187658(1), involving proceedings under section 143(3) of the Income Tax Act, 1961 (in short “the Act”).

2. Case called twice. None appears at assessee’s behest. It is accordingly proceeded ex-parte.

3. The assessee’s first and foremost sole substantive grievance raised in the instant appeal challenges correctness of CIT(A)'s action restricting the Assessing Officer’s action

invoking sec.14A r.w. Rule 8D(2)(iii) disallowance only to the extent of investments yielding actual exempt income reading as under :

> *"2.5. However, the claim of the appellant that only those investment are required to be considered, on which the exempt income is received, relying on the decision of the Honie ITAT Mumbai in the case of Mahindra and Mahindra Ltd. dated 19-06-2020, reported in 117 taxmann.com 518 (Mumbai - Trib.) appears to be correct. It was also held in the case of Vireet Investment (P .) Ltd. [2017] 165 ITD 27 (Delhi - Trib.)(SB) that only those investments which actually yielded an exempt income be only considered while computing disallowance u/s 14A of the 1961 Act read with Rule 8D(2)(iii) of the 1962 Rules. Similar view is taken in several other cases by the Hon'ble ITAT, including the decisions in the cases of Mahindra and Mahindra Ltd. (Supra), Shivnarayan Nemani Shares & Stock Brokers (P.) Ltd. 132 taxmann.com 242 (Mumbai - Trib.), Kalyani Barter (P.) Ltd. [2017] 79 taxmann.com 457 (Kolkata - Trib.) etc. Therefore, considering these decisions, this ground of the appellant is found to be correct. The appellant has stated that the dividend was earned on the investment of Rs.17244849, which is the*

opening balance as well as the closing balance. Considering the same, the disallowance under Rule 8(2)(iii) is determined at one-half percent of the same i.e. Rs.86224/-. Therefore, the disallowance is to be confirmed to the extent of Rs.86224/- only and the remaining addition made by the AO should be deleted. However, while giving effect to this order, the AO is directed to verify the amount of investment and the consequent disallowance. This ground of appeal is partly allowed."

4. Suffice to say, it has come on record that the CIT(A)'s has already taken note of the settled legal proposition on the instant issue. We thus find no merit in the assessee's instant sole substantive grievance. It's instant former substantive ground stands rejected therefore.

5. The factual position would hardly be any different regarding the assessee's latter substantive ground seeking to reverse both the lower authorities action disallowing the alleged sales promotion expenses of Rs.4,81,477/- representing dinner for guests at JW Marriot Hotel, Pune. The CIT(A)'s detailed discussion affirming Assessing Officer's action to this effect reads as under :

"Ground No. 2:

3.1. Vide this ground of appeal, the appellant contended that the AO erred in disallowing the sum of Rs.4,81,477- on account of sales promotion expenses and adding it to the total income of the appellant. The AO observed that the appellant had debited a sum of Rs.4,81,477/- on dinner for guests at JW Marriot. But the appellant failed to furnish any bill for these expenses and also could not establish that these expenses were for business purpose and therefore, the AO disallowed these expenses. During the appellate proceedings, the appellant filed copies of bills of expenses and submitted that during the year, the appellant took over one Aurangabad based running unit manufacturing Paper Core, Edge Protector and BOPP tape. After taking over the unit and after starting manufacturing activities, the appellant organized a meeting with its customers, suppliers and bankers at hotel J W Marriot and these expenses in respect of such meeting are wholly and exclusively for business and therefore, should be allowed.

3.2. I have considered the submission of the appellant as well as facts of the case. It is seen that the

AO has disallowed these expenses as the appellant neither filed any bills in support of the same nor the appellant could establish that these were incurred for the business of the appellant. Before me, the appellant filed copies of bills and contended that the appellant has acquired an Aurangabad based manufacturing unit and after starting manufacturing activities, the appellant organized a meeting with its customers, suppliers and bankers at Hotel J W Marriot and these expenses in respect of such meeting are wholly and exclusively for business. However, the appellant neither filed any details of the unit acquired nor filed any details or supporting evidence, which could substantiate that these expenses were incurred for organising the meeting with its customers, suppliers and bankers and therefore, for business purpose, as claimed by the appellant. In absence of the same, it can not be said that these expenses were incurred by the appellant wholly and exclusively for the business of the appellant. Therefore, I find no reason to interfere with the order of the AO in respect of this addition. The addition made by the AO is upheld. This ground may be treated as dismissed."

5.1. We note with the able assistance coming from the Revenue side that the assessee has not been able to prove the impugned dinner expenses to have been incurred wholly and exclusively for the purpose of business by way of filing cogent supportive evidence. We thus affirm the instant latter disallowance of sales promotion expenses as well. Ordered accordingly.

6. This assessee's appeal is dismissed in above terms.

Order pronounced in the open Court on 05.01.2023.

Sd/-	Sd/-
[DR. DIPAK P. RIPOTE]	[SATBEER SINGH GODARA]
ACCOUNTANT MEMBER	JUDICIAL MEMBER

Pune, Dated 05th January, 2023

VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	The Ld. CIT(A) concerned.
4.	The CIT concerned
5.	D.R. ITAT, Pune "B" Bench, Pune
6.	Guard File.

//By Order//

Assistant Registrar, ITAT, Pune Benches
Pune.