

**THE INCOME TAX APPELLATE TRIBUNAL  
DELHIBENCH 'A', NEW DELHI**

**Before Sh. C. M. Garg, Judicial Member**

**Dr. B. R. R. Kumar, Accountant Member**

**ITA No. 1239/Del/2019 : Asstt. Year: 2015-16**

Avantha Consulting Services Ltd., First India Place, Tower-C, M.G. Road, Gurgaon-122002 (APPELLANT)	Vs.	DCIT, Circle-1(1), Gurgaon (RESPONDENT)
<b>PAN No. AALCA6351Q</b>		

**Assessee by : Sh. Upvan Gupta, Adv.**

**Revenue by : Sh. Kanv Bali, Sr. DR**

**Date of Hearing: 08.02.2023**

**Date of Pronouncement: 21.04.2023**

**ORDER**

**Per Dr. B. R. R. Kumar, Accountant Member:**

The present appeal has been filed by assessee against the order of the Id CIT(A)-1, Gurgaon dated 06.12.2018.

2. The assessee has raised the following grounds of appeal:

*"1. On the facts and in the circumstances of the case and in law, the learned Commissioner of Income Tax (Appeals)-1, Gurgaon [“the CIT(A)”] erred in not allowing expenses of Rs.46,76,255/- incurred by the appellant during the course of its business operations.*

*1.2 On the facts and in the circumstances of the case and in law, the Id. CIT(A) erred in not considering that the said expenses were incurred wholly and exclusively for the activities to earn income as well as to maintain the appellant’s establishment as corporate entity and to comply with its statutory obligations.*

*1.3 On the facts and in the circumstances of the case and in law, the Id. CIT(A) erred in upholding an invalid*

*assessment order, which was passed in gross violation of CBDT instructions issued in relation to scope of enquiry in cases under 'Limited Scrutiny'."*

3. The assessee filed return of income on 30.09.2015 declaring an income of Rs.56,46,930/-. The assessee company was incorporated in the year 2013 and till 31.03.2015 waiting for the licence in the field of Life Insurance business from IRDA.

4. The case has been selected for limited scrutiny for the following reasons:

- I. Mismatch in profit before tax as per P&L account and schedule BP of return (Verification of MAT liability);
- II. Mismatch between income/ receipt credited to P&L account considered under other heads of income and income from head of income other than business/profession.

5. The Id. AR of the assessee contended that the Assessing Officer had exceeded the scope of scrutiny provided under the limited scrutiny.

6. We find that during the assessment proceedings u/s 143(3) of the Act, addition of Rs. 46,76,255/- to the returned income was made by disallowing expenses u/s 57 (iii) of the Act. The addition has been made after examining various heads of income and determining the section under which the amount has to be taxed. Hence, we hold that the Assessing Officer is right within the jurisdiction to complete the assessment as per the scrutiny guidelines.

7. The AO observed that the assessee has incurred huge expenditure amounting to Rs.27,05,71,736/- in the profit & loss account in the form of salary, maintenance and other expenses.

**Disallowance of Expenditure:**

8. During the year the assessee incurred expenditure amounting to Rs. 27,05,71,736/- in the P&L account in the form of salary, maintenance and other expenses which had been disallowed by the appellant itself in the computation.

9. The Assessing Officer noted that the appellant had earned interest amounting to Rs. 1,03,23,788/- on FDRs against which the appellant had claimed expenditure of Rs. 46,76,255/- as under:

S. No.	Particulars	Amount (Rs.)	
	<b>Interest on Fixed Deposits</b>		<b>1,03,23,188/-</b>
Less:-	Auditors Fees	2,81,000/-	
	Employees remunerations		
	5% of CEO and CFO salary	26,47,828/-	
	Salary of company Secretary	13,09,669/-	
	Legal and professional fees- ROC	44,890/-	
	Board Meeting expenses-CEO and CFO travel expenses	77,416/-	
	Director sitting fees	2,60,000/-	46,76,255/-
	Income from other sources chargeable to tax		56,46,933/-

10. Out of the interest on FDs of Rs.1.03 Cr., the assessee has claimed expenses of Rs.46.76 lacs which the AO disallowed and confirmed by the Id. CIT(A).

11. Aggrieved, the assessee filed appeal before us.

12. The Id. AR argued that the company was incorporated in May 2013 to undertake and carry on the business of life insurance. As on 31<sup>st</sup> March 2015, the company's applications for issue of necessary licenses were pending before the Insurance Regulatory and Development Authority of India ('IRDA'). In view of the pending licences, the business of the company has not commenced during the A.Y. 2015-16. It was argued the employee remuneration and other expenses as depicted in the table above have been incurred which are statutory in nature and mandatorily require to be spent in order to maintain the corporate status of the company. It was argued that the expenses have a direct nexus with the earning of the interest income and thus been claimed u/s 57(iii) of the Act. It was argued that the expenses for the A.Y. 2015-16 were accepted by the department. The Id. AR relied on the judgment of Hon'ble High Court of Delhi in Maruti Insurance Broking (P.) Ltd. Vs DCIT 127 taxmann.com 685.

13. The Id. DR relied on the orders of the lower authorities.

14. Heard the arguments of both the parties and perused the material available on record.

15. Under the scheme of Income tax act, the total income of the company is chargeable to tax under section 4 of the Act. The total income has to be computed in accordance with the provisions of the Act. Section 14 of the Act enumerates that for the purpose of computation, income of an assessee has to be classified under five heads:

- (A) Salaries.
- (B) Income from house property.
- (C) Profits and gains of business or profession.
- (D) Capital gains.
- (E) Income from other sources

16. The income of the assessee rightly falls under the head "Income from other sources".

17. Further, we have perused the provisions of Section 57 of the I.T. Act which reads as under:

*"Deductions.*

*57. The income chargeable under the head "Income from other sources" shall be computed after making the following deductions, namely :—*

*(i) in the case of [dividends], or interest on securities, any reasonable sum paid by way of commission or remuneration to a banker or any other person for the purpose of realising such dividend or interest on behalf of the assessee ;*

*(ia) in the case of income of the nature referred to in sub-clause (x) of clause (24) of section 2 which is chargeable to income-tax under the head "Income from other sources", deductions, so far as may be, in accordance with the provisions of clause (va) of sub-section (1) of section 36 ;*

*(ii) in the case of income of the nature referred to in clauses (ii) and (iii) of sub-section (2) of section 56, deductions, so far as may be, in accordance with the provisions of sub-clause (ii) of clause (a) and clause (c) of section 30, section 31 and sub-sections (1) and (2) of section 32 and subject to the provisions of section 38 ;*

*(ia) in the case of income in the nature of family pension, a deduction of a sum equal to thirty-three and one-third per cent of such income or fifteen thousand rupees, whichever is less.*

*Explanation.—For the purposes of this clause, "family pension" means a regular monthly amount payable by the employer to a person belonging to the family of an employee in the event of his death ;*

*(iii) any other expenditure (not being in the nature of capital expenditure) laid out or expended wholly and exclusively for the purpose of making or earning such income;*

*(iv) in the case of income of the nature referred to in clause (viii) of subsection (2) of section 56, a deduction of a sum equal to fifty per cent of such income and no deduction shall be allowed under any other clause of this section:*

*[Provided that no deduction shall be allowed from the dividend income, or income in respect of units of a Mutual Fund specified under clause (23D) of section 10 or income in respect of units from a specified company defined in the Explanation to clause (35) of section 10, other than deduction on account of interest expense, and in any previous year such deduction shall not exceed twenty per cent of the dividend income, or income in respect of such units, included in the total income for that year, without deduction under this section.]"*

18. As per the provisions of Section 57(iii), all the expenditure laid out or expended wholly and exclusively for the purpose of making or earning such income has to be allowed as deduction.

19. We find that employee remuneration, salary, legal expenses, board meeting expenses, Director sitting fees cannot be attributable to the interest earned from the fixed deposits. Reliance is being placed on the judgment of Hon'ble Supreme Court in the case of CIT Vs. V.P. Gopinathan 248 ITR 449 wherein the Hon'ble Apex Court held that there should be a nexus between the expenditure incurred and the income earned.

Hence, the facts and circumstances of the instant case, we hereby affirm the order of the Id. CIT(A).

20. In the result, the appeal of the assessee is dismissed.

Order Pronounced in the Open Court on 21/04/2023.

Sd/-

**(C. M. Garg)**  
**Judicial Member**

Sd/-

**(Dr. B. R. R. Kumar)**  
**Accountant Member**

**Dated: 21/04/2023**

\*Subodh Kumar, Sr. PS\*

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

**ASSISTANT REGISTRAR**