

**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES “SMC”, HYDERABAD
(Through Virtual Mode)**

BEFORE SHRI LALIET KUMAR, JUDICIAL MEMBER

ITA No.256/Hyd/2024		
Assessment Year: 2019-20		
Meenakshi Ventures and Holdings India Private Limited, Hyderabad. Plot No.119, Meenkashi, Road No.10, Jubilee Hills, Telangana – 500033. PAN : AAGCM4362C.	Vs.	The Income Tax Officer, Ward – 16(1), Hyderabad.
(Appellant)		(Respondent)
Assessee by:		Shri Sai Sari Konda, C.A.
Revenue by:		Shri Ranjan Agarwala, Sr.AR
Date of hearing:		08.04.2024
Date of pronouncement:		08.04.2024

ORDER

PER LALIET KUMAR, J.M.

The appeal of the assessee for A.Y. 2013-14 arises from the order of Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dt.20.02.2024 invoking proceedings under section 147 r.w.s 144 of the Income Tax Act, 1961 (in short, “the Act”).

2. The grounds raised by the assessee read as under :

“ 1. On the facts and circumstances of the case, the Assessment order U/s 250 dated 16-01-2024 is erroneous and bad in law.

2. The Learned CIT (Appeals) ought to have appreciated the fact that the amount of deduction claimed in total income is related to dividend which is exempt from tax

3. The Learned CIT (Appeals) Passed the Order u/s 250 by allowing the exemption to the assessee upto Rs 10,00,000 as per Section 115 BBDA and made an addition of dividend amount of Rs. 3,07,650 to the total income resulting in tax demand of Rs. 92,250/- However Section 115BBDA is not applicable to domestic companies.”

3. The brief facts of the case are that assessee is a company fled its return of income for the Assessment Year 2019-20 admitting loss of Rs. 1,15,455/- dated 24.09.2019. The Assessee has received Dividend from shares amounting to Rs.13,07,650/- during the year. Assessee claimed the same amount as exempt income in the Return of Income. However, while proceeding the return, the Assessing Officer issued notice u/s 143(1) of the Act rejecting the exemption claimed by the assessee and the Assessing Officer added the dividend amount of Rs.13,07,650/- to the total income resulting in tax demand of Rs. 3,59,713/-.

4. Feeling aggrieved with the intimation u/s 143(1) of the Act issued by the Assessing Officer, assessee filed an appeal before the ld.CIT(A), NFAC, Delhi, who granted part relief to the assessee.

5. Before me, ld.AR submitted that the assessee was not covered at the relevant point of time as per the provisions of section 115BBDA of the Act as the assessee happens to be a domestic Indian company. In the light of the above, it was submitted that the additions made by the Assessing Officer are not sustainable as the relevant provision was not in existence at the time of making the additions.

6. Per contra, the Ld. D.R. relied upon the orders of lower authorities.

7. I have heard the rival contentions of the parties and perused the material available on record. Section 115BBDA as amended w.e.f. 01.04.2017 provides as under :

[Tax on certain dividends received from domestic companies.

115BBDA. (1) Notwithstanding anything contained in this Act, where the total income of ⁶⁵[a specified assessee], resident in India, includes any income in aggregate exceeding ten lakh rupees, by way of dividends declared, distributed or paid by a domestic company or companies ⁶⁶[on or before the 31st day of March, 2020], the income-tax payable shall be the aggregate of—

(a)	the amount of income-tax calculated on the income by way of such dividends in aggregate exceeding ten lakh rupees, at the rate of ten per cent; and
(b)	the amount of income-tax with which the assessee would have been chargeable had the total income of the assessee been reduced by the amount of income by way of dividends.

(2) No deduction in respect of any expenditure or allowance or set off of loss shall be allowed to the assessee under any provision of this Act in computing the income by way of dividends referred to in clause (a) of sub-section (1).

(3) In this section, “dividends” shall have the same meaning as is given to “dividend” in clause (22) of section 2 but shall not include sub-clause (3) thereof.]

Following Explanation shall be substituted for sub-section (3) of section 115BBDA by the Finance Act, 2017, w.e.f. 1-4-2018:

⁶⁷[Explanation.—For the purposes of this section,—

(a)	"dividend" shall have the meaning assigned to it in clause (22) of section 2 but shall not include sub-clause (e) thereof;
(b)	"specified assessee" means a person other than,—
(i)	a domestic company; or

(ii)	a fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10 ; or
(iii)	a trust or institution registered ⁶⁸ [under section 12A or section 12AA or section 12AB].]

7.1. A “specified assessee” is substituted for "an assessee, being an individual, a Hindu undivided family or a firm" by the Finance Act, 2017, w.e.f. 1-4-2017.

7.2 Section 10(34) provides as under :

Any income by way of dividends referred to in section 115-O :

45[Provided that nothing in this clause shall apply to any income by way of dividend chargeable to tax in accordance with the provisions of section 115BBDA:]

46[Provided further that nothing contained in this clause shall apply to any income by way of dividend received on or after the 1st day of April, 2020 other than the dividend on which tax under section 115-O and section 115BBDA, wherever applicable, has been paid;]

*47[***]*

7.3. From the reading of the two provisions, it is abundantly clear that “the specified assessee” was inserted w.e.f. 01.04.2018 which included a domestic company also. Since the assessee happens to be a domestic company, therefore, the provision was not applicable. It was only applicable and in fact, the limit was only applicable if the total income of an assessee, **being an individual, Hindu Undivided Family or a firm, resident of India**, exceeding ten lakh rupees, by way of dividends declared, distributed or paid by a domestic company or companies. The assessee before me is none

of them i.e., neither **an individual nor Hindu Undivided Family nor a firm** and therefore, this provision of the Act is not applicable. Hence, the assessee is entitled to relief. Accordingly, the addition made by the Assessing Officer is deleted and I delete the entire addition. This, the appeal of the assessee is allowed.

8. In the result, the appeal of the assessee is allowed.

Order pronounced in the Open Court on 8th April, 2024.

Sd/-
(LALIET KUMAR)
JUDICIAL MEMBER

Hyderabad, dated 8th April, 2024.

TYNM/sps

Copy to:

S.No	Addresses
1	Meenakshi Ventures and Holdings India Private Limited, Hyderabad. Plot No.119, Meenkashi, Road No.10, Jubilee Hills, Telangana – 500033.
2	The Income Tax Officer, Ward – 16(1),Hyderabad.
3	Pr1.CIT, Hyderabad.
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order