IN THE INCOME TAX APPELLATE TRIBUNAL
BANGALORE BENCHES "B", BANGALORE

Before Shri George George K, JM & Shri B.R.Baskaran, AM

ITA No.1090/Bang/2017 : Asst.Year 2007-2008
ITA No.2627/Bang/2018 : Asst.Year 2010-2011
ITA No.1091/Bang/2017 : Asst.Year 2011-2012
ITA No.1092/Bang/2017 : Asst.Year 2012-2013
ITA No.1093/Bang/2017 : Asst.Year 2013-2014
ITA No.84/Bang/2018 : Asst.Year 2014-2015
ITA No.2942/Bang/2018 : Asst.Year 2015-2016

M/s.Hindustan Aeronautics Limited, No.15/1, Cubbon Road Bangalore – 560 001. **PAN : AAACH3641R.**	v.	The Asst.Commissioner of Income-tax, Circle 3(1)(2) Bangalore.
(Appellant)		(Respondent)

CO No.26/Bang/2019 : Asst.Year 2011-2012
CO No.27/Bang/2019 : Asst.Year 2012-2013
CO No.28/Bang/2019 : Asst.Year 2013-2014
CO No.29/Bang/2019 : Asst.Year 2014-2015
CO No.30/Bang/2019 : Asst.Year 2015-2016

The Asst.Commissioner of Income-tax, Circle 3(1)(2) Bangalore.	v.	M/s.Hindustan Aeronautics Limited, No.15/1, Cubbon Road Bangalore – 560 001.
(Cross Objector)		(Respondent)

Assessee by : Sri.Sunil Khurana, CA
Revenue by : Sri.Pradeep Kumar, CIT-DR

Date of Hearing : 18.08.2021		**Date of Pronouncement : 24.08.2021**

O R D E R

Per Bench :

These seven appeals at the instance of the assessee and five cross objections preferred by the Revenue are directed

against various orders of the CIT(A). The relevant assessment years are 2007-2008, 1010-2011 to 2015-2016.

2. Since common issues are raised in these appeals and cross objections, they were heard together and are being disposed of by this consolidated order.

We shall first adjudicate ITA No.1090/Bang/2019, concerning assessment year 2007-2008.

ITA No.1090/Bang/2019 (Asst.Year 2007-2008)

3. The grounds raised read as follows:-

> *"The grounds mentioned herein are without prejudice to one another.*
>
> *1. That the order passed by the learned Commissioner of Income-Tax (Appeals) ['CIT(A)'] under section 250 of the Income-tax Act, 1961 ('Act'), to the extent prejudicial to the Appellant, is bad in law and liable to be quashed.*
>
> *2. (a) That on the facts and in the circumstances of the case, the learned CIT(A) erred in upholding the disallowance of expenditure incurred by the Appellant on Research & Development amounting to INR 480,15,29,812 considering the expenditure as capital in nature.*
>
> *(b) That the learned CIT(A) erred in law and facts in disallowing the Research and Development expenditure incurred by the Company without considering the fact that such expenditure would be eligible for deduction under section 28 to 44DB of the Act.*
>
> *3. (a) Without prejudice to the Grounds No. 2(a) and 2(b) above, having held that the expenditure incurred by the Company out of the grant received from the Government of India is capital in nature, the learned CIT(A) erred in not granting deduction under Section 35(1)(iv) of the Act in respect of such expenditure.*
>
> *(b) That the learned CIT(A) erred in law & facts in considering that such expenses were not incurred for the purpose of the business of the company.*

(c) That the learned CIT(A) erred in not following the orders of The Hon'ble Income Tax Appellate Tribunal ['ITAT] in the company's own case for the assessment year 2005-06, 2006-07, 2009-10, 2010-11 wherein the ITAT has allowed deduction under section 35(1)(iv).

4. Without prejudice to the Ground No. 2 and 3above, where the research and development expenditure incurred is considered as capital in nature, CIT(A) has erred in not allowing depreciation on the same.

5. That the learned CIT(A) erred in dismissing the ground relating to disallowances of prior period expenditure.

6. That the learned CIT(A) erred in not considering the brought forward losses.

7. That the learned CIT(A) erred in not granting MAT credit available to the company.

8. That the learned CIT(A) erred in not granting TDS credit available to the company,

9. That the learned CIT(M erred in law and facts in upholding the order of the learned Assessing Officer in levying interest under section 234B, 234C and 234D of the Act.

10. That the Appellant craves leave to add to and/or to alter, amend, rescind, modify the grounds herein above or produce further documents before or at the time of hearing of this Appeal."

Ground Nos.2(a) and 2(b) (Disallowance of research and development expenses u/s 37 of the I.T.Act)

3.1 Brief facts of the above issue are as follow:

The assessee is a Public Sector Undertaking of Government of India. It is engaged in the business of design, development, manufacture and maintenance of advanced fighters. It mainly caters to Indian Defence needs. For the purpose of manufacturing Aircrafts and Aviation System, it undertakes various research and development activities in its research and development centres. During the relevant assessment year, the assessee received grants from Central

Government. These grants were given to enable the assessee to conduct research and development activities in Defence Aviation Technology. The aforesaid amount of grants were reduced while computing the total income for the relevant assessment year, whereas corresponding expenditure incurred towards research and development activities was debited in the profit and loss account and was claimed in the return of income as an admissible revenue expenditure u/s 37 of the I.T.Act. The Assessing Officer disallowed the expenditure claimed u/s 37 of the I.T.Act by holding that since the expenditure has been incurred out of grants received from the Government, which was treated as capital receipt, the corresponding expenditure incurred by the assessee towards research and development activities is also capital in nature.

3.2 Aggrieved, the assessee preferred an appeal to the first appellate authority. Apart from the claim of deduction u/s 37 of the I.T.Act, the assessee raised an alternative claim, namely, the expenditure should be allowed u/s 35(1)(iv) of the I.T.Act. The CIT(A) upheld the disallowance made by the A.O. by holding that the expenditure incurred by the assessee do not relate to the business carried on by the assessee and thus the conditions for claiming deduction as stipulated in section 35(1)(iv) of the I.T.Act are also not satisfied.

3.3 Aggrieved by the order of the CIT(A), the assessee raised this issue before the Tribunal. The learned AR submitted that the issue in question is covered in favour of the assessee by the judgment of the Hon'ble High Court in assessee's own

case for assessment years 2009-2010 and 2010-2011 in ITA No.404/2016 and ITA No.481/2016 (judgment dated 09.12.2020). The copy of the judgment of the Hon'ble High Court is placed on record.

3.4 The learned Departmental Representative has filed a brief written submission essentially supporting the stand taken by the A.O. and the CIT(A).

3.5 We have heard rival submissions and perused the material on record. For assessment year 2009-2010, an identical issue had cropped up before the Income Tax Authorities. The claim before the A.O. was that the expenditure incurred for research and development has to be allowed as deduction u/s 37 of the I.T.Act. The assessee also made an alternative claim that the same is to be allowed as deduction u/s 35(1)(iv) of the I.T.Act. The claims of deduction, both u/s 37 and u/s 35(1)(iv) of the I.T.Act were disallowed by the Assessing Officer for assessment year 2009-2010. The view taken by the A.O. was confirmed by the CIT(A). On further appeal before the ITAT, the ITAT confirmed the assessment order that the assessee is not entitled to deduction u/s 37 of the I.T.Act. Insofar as deduction u/s 35(1)(iv) of the I.T.Act is concerned, the ITAT restored the issue to the files of the A.O. to examine the alternative claim of the assessee. On further appeal u/s 260A of the I.T.Act, the Hon'ble High Court held that the assessee is entitled to deduction u/s 37 of the I.T.Act instead of section 35(1)(iv) of the I.T.Act. The Hon'ble High Court held that it is immaterial that expenditure sought to be deducted is out of grant

received from Central Government. It was held by the Hon'ble High Court that if the expenditure is on revenue front, the same is to be allowed as deduction u/s 37of the I.T.Act. The relevant finding of the Hon'ble High Court reads as follow:-

> *"11…….In the instant case, the total research and development expenses incurred by the assessee was to be tune of Rs.67,478.1 lakhs, which includes expenses towards raw materials, direct expenses, salaries, interest, depreciation and other expenses. Out of the aforesaid amount, the Assessing Officer has disallowed a sum of RS.570.61 crore on the ground that the same was made out of the grants given by Government of India. The expenses incurred by the assessee were towards research and development and therefore, the same were revenue in nature and ought to have been allowed as deduction under section 37 of the Act. The fact that the expenses incurred by the assessee towards research and expenses have been met out of the grants given by the government, which is treated as capital receipt is immaterial. The Tribunal erred in placing reliance on the case of the assessee for Assessment Year 1995-96 as the Tribunal failed to appreciate the aforesaid order, a the order no where states that the revenue expenses incurred out of the grant would not be allowed as deduction under Section 37 of the Act. It is pertinent to mention here that the nature of the expenditure has to be seen and not the nature of receipt and purpose for which such expenditure is made is a relevant criteria. The expenditure was incurred by the assessee for research and development for manufacture of aircrafts which were to be sold. Thus, the expenditure was incurred for the purpose of business of the assessee and the same ought to have been allowed under Section 37 of the Act instead of Section 35(1)(iv) of the Act."*

3.5.1 In the relevant assessment year a sum of Rs.480 crore was received as grant from the Central Government. The assessee, out of the same, has expended amounts for research and development activities. The bifurcation of the expenditure are not on record. It is not clear how the grants have been expended, that is, whether it is a revenue expenditure or capital expenditure. The Hon'ble High Court in

assessee's own case for assessment years 2009-2010 and 2010-2011 (supra) had categorically held that it is immaterial whether the expenditure has been incurred out of the grants given by the Central Government. The Hon'ble High Court held that if the expenditure is on the revenue field, the same is to be allowed as an expenditure u/s 37 of the I.T.Act instead of section 35(1)(iv) of the I.T.Act. Since the bifurcation of the expenditure claimed as deduction u/s 37 of the I.T.Act is not very clear, we restore this issue to the files of the A.O. The A.O. is directed to examine each of the expenditure whether it is in the revenue field and if so allow the same as deductible expenditure u/s 37 of the I.T.Act. The above direction is in tune with the dictum laid down by the Hon'ble High Court in assessee's own case for assessment years 2009-2010 and 2011-2011 (supra). As regards the other expenditure, which are not deductible u/s 37 of the I.T.Act, we direct the A.O. to examine the assessee's alternative claim of deduction u/s 35(1)(iv) of the I.T.Act. In this context, we rely on the order of the ITAT in assessee's own case for assessment year 2009-2010 in ITA No.309/Bang/2013, for assessment year 2005-2006 in ITA No.561/Bang/2014, wherein the ITAT had allowed the claim of capital expenditure incurred by the assessee towards research and development activities u/s 35(1)(iv) of the I.T.Act subject to satisfaction of other conditions set out in the said section.

3.5.2 It is to be mentioned that the CIT(A) in the impugned order at para 9.4 had denied the deduction u/s 35(1)(iv) of the I.T.Act, by observing as under:-

"9.4 It is not disputed that the appellant received grants from the Government for developing advanced technology including designs and prototypes for modern avionics. Therefore all such capital expenditures which are considered by the appellant for claiming deduction u/s 35(1)(iv) were actually incurred for the development of advanced technology in the field of avionics. However as stated above, Hon'ble Tribunal has held that the appellant was neither engaged in the business of "Technology development" nor in the business of "Selling technology". Therefore, following decision of the Hon'ble Tribunal, all such capital expenditure which was incurred by the appellant for developing advanced technology cannot be held to be related to the business activities carried on by the appellant."

3.5.3 The CIT(A) in taking the above view, has referred to the order of the ITAT in assessee's own case for assessment year 1995-1996 (ITA No.763/Bang/2019), wherein it was held by the ITAT that the grants received by the assessee is not taxable being a capital receipt, as the same is bringing into existence a capital asset being technology for manufacturing Aircrafts. The observation of the ITAT for assessment year 1995-1996 are three folds which are scattered over different parts of the order and it is convenient to refer them category-wise. The relevant observation reads as follow:-

(a) Grant is capital receipt as the same is for creation of a capital asset being technology:

Sr. No.	Quote	Para. Reference of ITAT order in ITA No.763/ Bang/2019
1.	Technology acquired being capital asset, grant to carry out research should also be treated as capital receipt.	7
2.	The receipt is to acquire capital asset in the form of technology and know-how, the receipt are capital in nature and not includible in income.	9
3.	Capital cost of the project would be met and provided by the Government but	11

	with a clear condition that all capital asset acquired with the funds provided by Government shall be the property of Government of India.	
4.	…. they were receipts for bringing into existence capital of lasting value. Facts of this case being identical to assesee's case before us is also relevant and applicable.	

(b) Grant is not revenue as it is not in relation to trading activities because the Appellant is not in the business of selling technology :

Sr. No.	Quote	Para. Reference
1.	Grant is given relating to defence related research and is in public interest through which technology is developed. Since selling technology is not part of assessee's business, same cannot be related to trade.	15(c)
2.	The assessee is not in the business of selling technologies.	23
3.	The assessee is not in the business of technology development but has necessary infrastructure for the same.	13(iv)
4.	[Distinguishing a case cited by DR] – The facts are distinguishable as the subsidy is not in the course of trading operations but for developing a capital asset.	17(a)

3.5.4 The CIT(A) after reading read the third observation in table above, *de hors* the content, observed that research is not relatable to the business of the assessee. We find that research is related to the business of assessee and can be found from the same order of the ITAT. The expression "related to business" is used in section 35(1)(iv) of the I.T.Act is an expression of wide import and it means associated with or connected with. The assessee is using research outcome for its business of manufacturing Defence Aircrafts, and hence, it cannot be denied that research is related to its business. This fact is buttressed by the observation of the Tribunal in

assessee's own case relied on by the CIT(A), which reads as follow:-

> (c) Research undertaken by the Appellant is used for its manufacturing business :

Sr. No.	Quote	Para. Reference
1.	The grants were given to enable the assessee to build up the necessary technology capabilities. It will be subsequently used for manufacture of ALH & LCA	7
2.	Technology acquired as a result of search carried out by the assessee will be useful to manufacture of ALH and LCA	13(v)
3.	The grant were given to enable HAL to conduct research and development in defence aviation technology so that it could acquire the necessary technical know-how for the subsequent manufacture of defence equipments.	16
4.	The Government retained the services of assessee to develop the technology to be used subsequently, in manufacture of vital defence equipments.	23

3.5.5 In the light of the above, it is clear that the claim of expenditure incurred towards research and development activities u/s 35(1)(iv) of the I.T.Act is to be allowed, provided other conditions are satisfied.

Ground Nos.3(a), 3(b), 3(c) and 4

4. The above grounds have become redundant in view of disposal of grounds No.2(a), 2(b). (We have directed the A.O. to examine the expenditure incurred whether it can be allowed as a deduction u/s 37 or 35(1)(iv) of the I.T.Act).

Ground No.5

5. This ground was not pressed by the learned AR, hence, the same is dismissed.

Ground No.6

6. In this ground, the assessee submits that the CIT(A) has erred in not considering the brought forward losses.

6.1 We have heard the rival submissions. The A.O. is directed to allow the set off of brought forward losses in accordance with law. It is ordered accordingly.

Ground No.7

7. In the above ground, the assessee contends that the CIT(A) has erred in not granting MAT credit available to it.

7.1 After hearing the rival submissions, we direct the A.O. to allow appropriate MAT credit in accordance with law.

Ground No.8

8. It is contention of the assessee in the above ground that the CIT(A) has erred in not granting TDS credit available to the assessee-company.

8.1 After hearing the rival submissions, we direct the A.O. to allow appropriate credit in respect of TDS.

Ground No.9

9. In this ground, the assessee submitted that the CIT(A) has erred in upholding the order of the A.O. in levying interest u/s 234B, 234C and 234D of the I.T.Act. This ground of the assessee is only consequential and hence, the same is dismissed.

ITA No.2627/Bang/2018 (Asst.Year 2010-2011)

10. The grounds raised read as follow:-

"The grounds mentioned herein are without prejudice to one another.

1. That the order passed by the learned Commissioner of Income-Tax (Appeals) ['CIT(A)'] under section 250 of the Income-tax Act, 1961 ('Act'), is bad in law and liable to be quashed.

2. (a) That on the facts and in the circumstances of the case, the learned CIT(A) erred in not allowing deduction under section 35(1)(iv) of the Act in respect of expenditure incurred by the Company amounting to INR 6,383,349,000 out of grants received from the Government of India, holding that these were not related to the business of the company.

(b) That the learned CIT(A) erred in not following the order of The Hon'ble Income Tax Appellate Tribunal ['ITAT] in the company's own case for the assessment year 200S-06, 2006-07, 2009-10, 2010-11 wherein in the ITAT has allowed deduction under section 35(1)(iv).

3. That the learned CIT(A) erred in not granting MAT credit available to the company.

4. That the learned CIT(A) erred in not granting TDS credit available to the company.

5. That the learned CIT(A) erred in law and facts in upholding the order of the learned Assessing Officer in levying interest under section 234B & 234C of the Act.

6. That the Appellant craves leave to add to and/or to alter, amend, rescind, modify the grounds herein above or produce further documents before or at the time of hearing of this Appeal."

Ground No.1

11. Ground No.1 is general in nature, hence, the same is dismissed.

Ground No.2(a) and 2(b)

12. The learned AR did not press these grounds, since the Hon'ble High Court in the first round of litigation had held that expenditure is revenue in nature and allowed the same as deduction u/s 37 of the I.T.Act. Hence, these grounds are dismissed as infructuous.

Ground No.3

13. In this ground, it is submitted that the CIT(A) has erred in not granting MAT credit available to the assessee-company.

13.1 After hearing the rival submissions the A.O. is directed to allow appropriate credit in respect of MAT credit. It is ordered accordingly.

Ground No.4

14. The assessee submits that the CIT(A) has erred in not granting TDS credit available to the assessee.

14.1 Heard rival submissions. The Assessing Officer is directed to allow appropriate credit in respect of TDS.

Ground No.5

15. This ground is regarding levy of interest u/s 234B and 234C of the I.T.Act. This ground is only consequential and the same is dismissed.

ITA No.1091/Bang/2017 (Asst.Year 2011-2012)

16. The grounds raised read as follow:

"The grounds mentioned herein are without prejudice to one another.

1. That the order passed by the learned Commissioner of Income-Tax (Appeals) ['CIT(A)'] under section 250 of the Income-tax Act, 1961 ('Act'), to the extent prejudicial to the Appellant, is bad in law and liable to be quashed.

2. (a) That the learned CIT(A) erred in law and on the facts of the case in upholding the disallowance of INR 15,704,168 under section 14A of the Act read with Rule 8D of the Income-tax Rules, 1962('Rules').

(b) That the learned CIT(A) erred in upholding the disallowances under section 14A in excess of the amount of exempt income.

3. (a) That on the facts and in the circumstances of the case, the learned CIT(A) erred in upholding the disallowance of expenditure incurred by the Appellant on Research & Development amounting to INR 6,048,237,000 considering the expenditure as capital in nature.

(b) That the learned CIT(A) erred in law and facts in disallowing the Research and Development expenditure incurred by the Company without considering the fact that such expenditure would be eligible for deduction under section 28 to 44DB of the Act.

4. (a) Without prejudice to the Grounds No. 3(a) and 3(b) above, having held that the expenditure incurred by the Company out of the grant received from the Government of India is capital in nature, the learned CIT(A) erred in not granting deduction under Section 35(1)(iv) of the Act in respect of such expenditure.

(b) That the learned CIT(A) erred in law & facts in considering that such expenses were not incurred for the purpose of the business of the company.

(c) That the learned CIT(A) erred in not following the order of The Hon'ble Income Tax Appellate Tribunal ['ITAT'] in the company's own case for the assessment year 2005-06, 2006-07, 2009-10 2010-11 wherein the ITAT has allowed deduction under section 35(1)(iv).

5. Without prejudice to the Ground NO.3 and 4 above, where the research and development expenditure incurred is considered as capital in nature, CIT(A) erred in not allowing depreciation on the same.

6. That the learned CIT(A) erred in law and facts in again disallowing 50% of the provision for doubtful debt even though the entire provisions created had already been disallowed by the company in its Return of Income.

7. That the learned CIT(A) erred in law and facts in again disallowing 50% of the provision for doubtful claims, even though the entire provisions created had already been disallowed by the company in its Return of Income."

Ground Nos.2(a) and 2(b) (disallowance u/s 14A of the I.T.Act.

17. The Assessing Officer made a disallowance of Rs.1,57,05,523 u/s 14A of the I.T.Act r.w. Rule 8D(2)(ii) of the I.T.Rules being 0.5% of average value of investment held by the assessee and proportionate interest expenditure not directly attributable.

17.1 The CIT(A) upheld the disallowance u/s 14A of the I.T.Act. The CIT(A) relied on the order of the Tribunal in assessee's own case for assessment year 2009-2010. However, with respect to disallowance of interest expenditure of Rs.1,355, the CIT(A) granted relief.

17.2 The assessee being aggrieved, has raised this issue before the Tribunal. The learned AR submitted that the issue in question is covered in favour of the assessee by the judgment of the Hon'ble High Court in assessee's own case for assessment years 2009-2010 and 2010-2011 in ITA No.404/2016 and 481/2016 (judgment dated 09.12.2020). It was submitted that the Hon'ble High Court had deleted disallowance u/s 14A of the I.T.Act by holding that the A.O. has not recorded any satisfaction with regard to genuineness of the claim of the assessee before invoking the powers u/s 14A of the I.T.Act r.w. Rule 8D of the I.T.Rules. It was stated in the relevant assessment year also, the A.O. had not

recorded such a satisfaction before disallowance u/s 14A of the I.T.Act was made. It was alternatively contended that only those investments from which exempted income was earned that alone should be considered for the purpose of disallowance u/s 14A of the I.T.Act.

17.3 The learned DR supported the orders of the Income Tax Authorities.

17.4 We have heard the rival submissions. Before us the learned AR placed reliance on the decision rendered by the Hon'ble High Court of Karnataka in its own case for assessment years 2009-2010 and 2010-2011, wherein the Hon'ble High Court had deleted the disallowance made u/s 14A of the I.T.Act by holding that the A.O. has not recorded any satisfaction with regard to the genuineness of the claim of the assessee before invoking the provisions of Rule 8D of the I.T.Rules. However, on perusal of the assessment order would show the Assessing Officer has discussed about the disallowance to be made u/s 14A of the I.T.Act r.w. Rule 8D of the I.T.Rules in pages 2 to 5 of the order. It is pertinent to note that the assessee did not make any disallowance during the year under consideration even though it had received dividend income of Rs.32.78 lakh from a company named M/s.Indo Russian Aviation Limited.

17.5 With regard to the recording of satisfaction, there is no particular basis / manner in which the A.O. to record satisfaction / dissatisfaction. The Hon'ble Supreme Court in the case of MAK Data P. Ltd. v. CIT [(2013) 358 ITR 593 (SC)]

has held that the satisfaction or dissatisfaction of the Assessing Officer has to be inferred from the discussion made by the Assessing Officer in the assessment order. In our view, the discussion made by the A.O. in the assessment order would show that the A.O. was not satisfied with the contentions of the assessee, and accordingly, we are of the view that the same would satisfy the requirement of recording of dissatisfaction by the Assessing Officer within the meaning of section 14A of the I.T.Act.

17.6 However, we noticed that the A.O. has mechanically applied the provisions of Rule 8D of the I.T.Rules. We noticed that the assessee has received dividend income from only one company named M/s.Indo Russian Aviation Limited. Considering these facts, we are of the view that the provisions of Rule 8D of the I.T. Rules should not have been applied mechanically. We are of the view that the disallowance u/s 14A of the I.T.Act may be estimated in order to meet the requirement of section 14A of the I.T.Act, since dividend has been received only from one company. Accordingly, we are of the view that a disallowance of Rs.50,000 would meet the requirements of section 14A of the Act and the same will put a quietus to the issue. Therefore, we set aside the order passed by the learned CIT(A) on this issue and direct the A.O. to restrict the disallowance to Rs.50,000 u/s 14A of the I.T.Act for assessment year 2011-2012.

Ground Nos.3(a), 3(b), 4(a), 4(b), 4(c) and 5

18. The above grounds relate to the issue of disallowance of research and development expenditure. Identical issues were

adjudicated by us in ITA No.1090.Bang/2017, concerning assessment year 2007-2008 (supra). For the reasons stated in para 3.5 to 3.5.5, these issues are restored to the files of the A.O. The A.O. shall follow the directions given by us in ITA No.1090/Bang/2019, concerning assessment year 2007-2008.

Ground Nos. 6 and 7

19. It is the claim of the assessee that in the return of income the assessee had disallowed the entire provision created towards doubtful debts. Therefore, the A.O. is not justified in again disallowing 50% of the doubtful debts.

19.1 We have heard the rival submissions. The A.O. is directed to verify the claim of the assessee. Accordingly, the issue raised in ground Nos.6 and 7 is allowed for statistical purposes.

Ground No.8

20. The issue raised in the above ground is that the assessee is not given TDS credit.

20.1 We have heard the rival submissions. The issue is restored to the A.O. The A.O. is directed to allow appropriate credit in respect of TDS.

Ground No.9

21. The above ground is regarding levy of interest u/s 234B, 234C and 234D of the I.T.Act. The levy of interest is consequential in nature, hence, the above ground is rejected.

22. In the result, the appeal of the assessee is partly allowed for statistical purposes.

ITA No.1092/Bang/2017 (for Asst.Year 2012-2013)

23. The grounds raised reads as follow:

"The grounds mentioned herein are without prejudice to one another.

1. That the order passed by the learned Commissioner of Income-Tax (Appeals) ['CIT(A)'] under section 250 of the Income-tax Act, 1961 ('Act'), to the extent prejudicial to the Appellant, is bad in law and liable to be quashed.

2 (a) That the learned CIT(A) erred in law and on the facts of the case in upholding the disallowance of INR 23,124,030 under section 14A of the Act read with Rule 8D of the Income-tax Rules, 1962 ('Rules').

(b) That the learned CITCA) erred in upholding the disallowances under section 14A in excess of the amount of exempt income.

3. (a) That on the facts in the circumstances of the case, the learned CIT(A) erred in upholding the disallowance of expenditure incurred by the Appellant on Research & Development amounting to INR 7,367,545,000 considering the same to be capital in nature.

(b) That the learned CITCA) erred in law and facts in disallowing the Research and Development expenditure incurred by the Company without considering the fact that such expenditure would be eligible for deduction under section 28 to 44DB of the Act.

4. (a) Without prejudice to the Grounds No. 3(a) and 3(b) above, having held that the expenditure incurred by the Company out of the grant received from the Government of India is capital in nature, the learned CITCA) erred in not granting deduction under Section 35(1)(iv) of the Act in respect of such expenditure.

(b) That the learned CIT(A) erred in law & facts in concluding that such expenses were not incurred for the purpose of the business of the company.

(c) That the learned CIT(A) erred in not following the order of The Hon'ble Income Tax Appellate Tribunal ['ITAT'] in the company's own case for the assessment year 2005-06, 2006-07, 2009-10, 2010-11 wherein in the ITAT has allowed deduction under section 35(1)(iv).

5. Without prejudice to the Ground NO.3 and 4 above, where the research and development expenditure incurred is considered as capital in nature, CIT(A) erred in not allowing depreciation on the same.

6. That the learned CIT(A) erred in not granting TDS credit available to the company.

7. That the learned CIT(A) erred in law and facts in upholding the order of the learned Assessing Officer in levying interest under section 234B & 234C of the Act.

8. That the Appellant craves leave to add to and /or to alter, amend, rescind, modify the grounds herein above or produce further documents before or at the time of hearing of this appeal."

Ground Nos.2(a) and 2(b) (Disallowance u/s 14A of the I.T.Act)

24. The issue of disallowance u/s 14A had come up for adjudication on identical facts in the previous assessment year, namely Asst.Year 2011-2012. In this year, the assessee has received dividend income of Rs.32.78 lakh from two companies. For our reasoning stated in para 17 to 17.6 for A.Y. 2011-2012 in ITA No.1091/Bang/ 2017 (supra), we estimate the disallowance of Rs.60,000. The A.O. is directed to restrict the disallowance to Rs.60,000. It is ordered accordingly.

Ground Nos.3(a), 3(b), 4(a), 4(b) and 5 (Disallowance of research and development expenditure)

25. An identical issue was adjudicated by us in assessment year 2007-2008 in ITA No.1090/Bang/2017 (supra). For the reasons stated in para 3.5 to 3.5.5 (supra), we restore the above issues to the files of the A.O. The A.O. is directed to dispose of the above issues following our directions contained

in our order for assessment year 2007-2008 in ITA No.1090/ Bang.2017. It is ordered accordingly.

Ground No.6

26. In the above ground, the assessee submits that the CIT(A) has erred in not granting TDS credit available to the assessee.

26.1 We have heard the rival submissions and perused the material on record. The A.O. is directed to allow appropriate credit in respect of the TDS. It is ordered accordingly.

Ground No.7

27. This ground is with regard to levy of interest u/s 234B, 234C of the I.T.Act. The levy of interest being consequential, the above ground is rejected.

28. In the result, the appeal filed by the assessee is partly allowed for statistical purposes.

ITA No.1093/Bang/2017 (Asst.Year 2013-2014)

29. The grounds raised read as follows:-

"The grounds mentioned herein are without prejudice to one another.

1. That the order passed by the learned Commissioner of Income-Tax (Appeals) ['CIT(A)'] under section 250 of the Income-tax Act, 1961 ('Act'), to the extent prejudicial to the Appellant, is bad in law and liable to be quashed.

2 (a) That the learned CIT(A) erred in law and on the facts of the case in upholding the disallowance of INR 30,869,975 under section 14A of the Act read with Rule 8D of the Income-tax Rules, 1962 ('Rules').

(b) That the learned CITCA) erred in upholding the disallowances under section 14A in excess of the amount of exempt income.

3. (a) That on the facts in the circumstances of the case, the learned CIT(A) erred in upholding the disallowance of expenditure incurred by the Appellant on Research & Development amounting to INR 18,118,779,000 considering the same to be capital in nature.

(b) That the learned CITCA) erred in law and facts in disallowing the Research and Development expenditure incurred by the Company without considering the fact that such expenditure would be eligible for deduction under section 28 to 44DB of the Act.

4. (a) Without prejudice to the Grounds No. 3(a) and 3(b) above, having held that the expenditure incurred by the Company out of the grant received from the Government of India is capital in nature, the learned CITCA) erred in not granting deduction under Section 35(1)(iv) of the Act in respect of such expenditure.

(b) That the learned CIT(A) erred in law & facts in concluding that such expenses were not incurred for the purpose of the business of the company.

(c) That the learned CIT(A) erred in not following the order of The Hon'ble Income Tax Appellate Tribunal ['ITAT'] in the company's own case for the assessment year 2005-06, 2006-07, 2009-10, 2010-11 wherein in the ITAT has allowed deduction under section 35(1)(iv).

5. Without prejudice to the Ground No.3 and 4 above, where the research and development expenditure incurred is considered as capital in nature, CIT(A) erred in not allowing depreciation on the same.

6. That the learned CIT(A) erred in not granting TDS credit available to the company.

7. That the learned CIT(A) erred in law and facts in upholding the order of the learned Assessing Officer in levying interest under section 234B of the Act.

8. That the Appellant craves leave to add to and /or to alter, amend, rescind, modify the grounds herein above or produce further documents before or at the time of hearing of this appeal."

Ground Nos.2(a) and 2(b) (Disallowance u/s 14A of the I.T.Act)

30. The issue of disallowance u/s 14A had come up for adjudication on identical facts in the previous assessment

year, namely Asst.Year 2011-2012. In this year, the assessee has received dividend income of Rs.93.65 lakh. The assessee has voluntarily disallowed Rs.47,000. For our reasoning stated in para 17 to 17.6 for A.Y. 2011-2012 in ITA No.1091/Bang/ 2017 (supra), we estimate disallowance to Rs.60,000. The A.O. is directed to add the difference amount. It is ordered accordingly.

Ground Nos.3(a), 3(b), 4(a), 4(b) and 5 (Disallowance of research and development expenditure)

31. An identical issue was adjudicated by us in assessment year 2007-2008 in ITA No.1090/Bang/2017 (supra). For the reasons stated in para 3.5 to 3.5.5 (supra), we restore the above issues to the files of the A.O. The A.O. is directed to dispose of the above issues following our directions contained in our order for assessment year 2007-2008 in ITA No.1090/ Bang.2017. It is ordered accordingly.

Ground No.6

32. In the above ground, the assessee submits that the CIT(A) has erred in not granting TDS credit available to the assessee.

32.1 We have heard the rival submissions and perused the material on record. The A.O. is directed to allow appropriate credit in respect of the TDS. It is ordered accordingly.

Ground No.7

33. This ground is with regard to levy of interest u/s 234B, of the I.T.Act. The levy of interest being consequential, the above ground is rejected.

34. In the result, the appeal filed by the assessee is partly allowed for statistical purposes.

ITA No.84/Bang/2018 (Asst.Year 2014-2015)

35. The grounds raised read as follows:-

"The grounds mentioned herein are without prejudice to one another.

1. That the order passed by the learned Commissioner of Income-Tax (Appeals) ['CIT(A)'] under section 250 of the Income-tax Act, 1961 ('Act'), to the extent prejudicial to the Appellant, is bad in law and liable to be quashed.

2 (a) That the learned CIT(A) erred in law and on the facts of the case in upholding the disallowance of INR 35,369,427 under section 14A of the Act read with Rule 8D of the Income-tax Rules, 1962 ('Rules').

(b) That the learned CITCA) erred in upholding the disallowances under section 14A in excess of the amount of exempt income.

3. (a) That on the facts in the circumstances of the case, the learned CIT(A) erred in upholding the disallowance of expenditure incurred by the Appellant on Research & Development amounting to INR 7,333,718,000 considering the same to be capital in nature.

(b) That the learned CITCA) erred in law and facts in disallowing the Research and Development expenditure incurred by the Company without considering the fact that such expenditure would be eligible for deduction under section 28 to 44DB of the Act.

4. (a) Without prejudice to the Grounds No. 3(a) and 3(b) above, having held that the expenditure incurred by the Company out of the grant received from the Government of India is capital in nature, the learned CITCA) erred in not granting deduction under Section 35(1)(iv) of the Act in respect of such expenditure.

(b) That the learned CIT(A) erred in law & facts in concluding that such expenses were not incurred for the purpose of the business of the company.

(c) That the learned CIT(A) erred in not following the order of The Hon'ble Income Tax Appellate Tribunal ['ITAT'] in the company's own case for the assessment year 2005-06, 2006-07, 2009-10, 2010-11 wherein in the ITAT has allowed deduction under section 35(1)(iv).

5. Without prejudice to the Ground No.3 and 4 above, where the research and development expenditure incurred is considered as capital in nature, CIT(A) erred in not allowing depreciation on the same.

6. That the learned CIT(A) erred in not granting MAT credit available to the company.

7. That the learned CIT(A) erred in not granting TDS credit available to the company.

8. That the learned CIT(A) erred in law and facts in upholding the order of the learned Assessing Officer in levying interest under section 234A and 234B of the Act.

9. That the Appellant craves leave to add to and /or to alter, amend, rescind, modify the grounds herein above or produce further documents before or at the time of hearing of this appeal."

Ground Nos.2(a) and 2(b) (Disallowance u/s 14A of the I.T.Act)

36. The issue of disallowance u/s 14A had come up for adjudication on identical facts in the preceding assessment year, namely Asst.Year 2011-2012. In this year, the assessee has received dividend income of Rs.188.61 lakh from two companies. The assessee has voluntarily disallowed Rs.47,000. For our reasoning stated in para 17 to 17.6 for A.Y. 2011-2012 in ITA No.1091/Bang/ 2017 (supra), we estimate the disallowance to Rs.1.00 lakh. The A.O. is directed to add the difference amount. It is ordered accordingly.

Ground Nos.3(a), 3(b), 4(a), 4(b) and 5 (Disallowance of research and development expenditure)

37. An identical issue was adjudicated by us in assessment year 2007-2008 in ITA No.1090/Bang/2017 (supra). For the reasons stated in para 3.5 to 3.5.5 (supra), we restore the above issues to the files of the A.O. The A.O. is directed to dispose of the above issues following our directions contained in our order for assessment year 2007-2008 in ITA No.1090/ Bang.2017. It is ordered accordingly.

Ground No.6

38. In this assessee, the assessee contends that the CIT(A) has erred in not granting MAT credit available to it.

38.1 After hearing the rival submissions, we direct the A.O. to allow appropriate MAT credit in accordance with law.

Ground No.7

39. In the above ground, the assessee submits that the CIT(A) has erred in not granting TDS credit available to the assessee.

39.1 We have heard the rival submissions and perused the material on record. The A.O. is directed to allow appropriate credit in respect of the TDS. It is ordered accordingly.

Ground No.8

40. This ground is with regard to levy of interest u/s 234A and 234B, of the I.T.Act. The levy of interest being consequential, the above ground is rejected.

41. In the result, the appeal filed by the assessee is partly allowed for statistical purposes.

ITA No.2942/Bang/2018 (Asst.Year 2015-2016)

42. The grounds raised read as follows:-

"The grounds mentioned herein are without prejudice to one another.

1. That the order passed by the learned Commissioner of Income-Tax (Appeals) ['CIT(A)'] under section 250 of the Income-tax Act, 1961 ('Act'), to the extent prejudicial to the Appellant, is bad in law and liable to be quashed.

2 (a) That the learned CIT(A) erred in law and on the facts of the case in upholding the disallowance of INR 36,318,343 under section 14A of the Act read with Rule 8D of the Income-tax Rules, 1962 ('Rules').

(b) That the learned CITCA) erred in upholding the disallowances under section 14A in excess of the amount of exempt income.

3. (a) That on the facts in the circumstances of the case, the learned CIT(A) erred in upholding the disallowance of expenditure incurred by the Appellant on Research & Development amounting to INR 6,134,006,000 considering the same to be capital in nature.

(b) That the learned CITCA) erred in law and facts in disallowing the Research and Development expenditure incurred by the Company without considering the fact that such expenditure would be eligible for deduction under section 28 to 44DB of the Act.

4. (a) Without prejudice to the Grounds No. 3(a) and 3(b) above, having held that the expenditure incurred by the Company out of the grant received from the Government of India is capital in nature, the learned CITCA) erred in not granting deduction under Section 35(1)(iv) of the Act in

respect of such expenditure.

(b) That the learned CIT(A) erred in law & facts in concluding that such expenses were not incurred for the purpose of the business of the company.

(c) That the learned CIT(A) erred in not following the order of The Hon'ble Income Tax Appellate Tribunal ['ITAT'] in the company's own case for the assessment year 2005-06, 2006-07, 2009-10, 2010-11 wherein in the ITAT has allowed deduction under section 35(1)(iv).

5. Without prejudice to the Ground No.3 and 4 above, where the research and development expenditure incurred is considered as capital in nature, CIT(A) erred in not allowing depreciation on the same.

6. That the learned CIT(A) erred in not granting MAT credit available to the company.

7. That the learned CIT(A) erred in law and facts in upholding the order of the learned Assessing Officer in levying interest under section 234B and 234D of the Act.

8. That the Appellant craves leave to add to and /or to alter, amend, rescind, modify the grounds herein above or produce further documents before or at the time of hearing of this appeal."

Ground Nos.2(a) and 2(b) (Disallowance u/s 14A of the I.T.Act)

43. The issue of disallowance u/s 14A had come up for adjudication on identical facts in the preceding assessment year, namely Asst.Year 2011-2012. In this year, the assessee has received dividend income of Rs.183.97 lakh from three companies. The assessee has voluntarily disallowed a sum of Rs.7.63 lakh. For our reasoning stated in para 17 to 17.6 for A.Y. 2011-2012 in ITA No.1091/Bang/ 2017 (supra), we are of the view that no further disallowance is called for. The A.O. is directed not to make any further disallowance. It is ordered accordingly.

Ground Nos.3(a), 3(b), 4(a), 4(b) and 5 (Disallowance of research and development expenditure)

44. An identical issue was adjudicated by us in assessment year 2007-2008 in ITA No.1090/Bang/2017 (supra). For the reasons stated in para 3.5 to 3.5.5 (supra), we restore the above issues to the files of the A.O. The A.O. is directed to dispose of the above issues following our directions contained in our order for assessment year 2007-2008 in ITA No.1090/ Bang.2017. It is ordered accordingly.

Ground No.6

45. In this assessee, the assessee contends that the CIT(A) has erred in not granting MAT credit available to it.

45.1 After hearing the rival submissions, we direct the A.O. to allow appropriate MAT credit in accordance with law.

Ground No.7

46. This ground is with regard to levy of interest u/s 234B and 234D of the I.T.Act. The levy of interest being consequential, the above ground is rejected.

47. In the result, the appeal filed by the assessee is partly allowed for statistical purposes.

CO Nos.25 to 30/Bang/2019 (By Revenue) (For Asst.Years 2011-2012 to 2015-2016)

48. These cross objections are essentially supporting the orders of the CIT(A). Since we have disposed of the appeals, these cross objections are rendered infructuous and dismissed as such.

49. In the result, the appeals filed by the assessee are partly allowed for statistical purposes and the cross objections filed by the Revenue are dismissed.

Order pronounced on this 24th day of August, 2021.

Sd/-	**Sd/-**
(B.R.Baskaran)	**(George George K)**
ACCOUNTANT MEMBER	**JUDICIAL MEMBER**

Bangalore; Dated : 24th August, 2021.
Devadas G*

Copy to :
1. The Appellant.
2. The Respondent.
3. The CIT(A)-3, Bengaluru
4. The Pr.CIT-3, Bengaluru.
5. The DR, ITAT, Bengaluru.
6. Guard File.

Asst.Registrar/ITAT, Bangalore