



11 declaring total income of Rs. 8,42,27,182/-. The Ld. AO during the course of assessment proceedings observed that the assessee had earned dividend income of Rs. 1,69,73,044/- and interest from PPF of Rs. 4,77,417/- and claimed the same as exempt from total income. Accordingly, the Ld. AO sought to invoke the provisions of Section 14A of the Act read with Rule 8D of the Rules. The assessee submitted that it had sufficient own funds and that the borrowed funds were used only for the purpose of her business, and no part of the borrowed funds were utilized for making investments. Accordingly, no disallowance could be made towards investment in terms of Rule 8D(2)(ii) of the Rules. With regard to the disallowance to be made under the third limb of Rule 8D(2), it was submitted that the assessee had debited total sum of Rs. 40,73,576/- as common expenses in her profit and loss account and from that, the assessee herself voluntarily had already disallowed a sum of Rs. 5 lacs on an adhoc basis in the return of income and prayed for acceptance of the same. The Ld. AO however did not heed to the contentions of the assessee and proceeded to work out the disallowance under second and third limb of Rule 8D and arrived at the figure of Rs. 70,60,839/-. However, since, the total expenses debited in the profit and loss account towards general expenses were only 40,73, 576/-, he granted relief to the extent of Rs. 1 lac. out of the same and disallowed a sum of Rs. 39,73,576/- u/s 14A of the Act in the assessment.

4. The Ld. CIT(A) on going through the financials of the assessee and by duly appreciating the various case laws in that regard observed that there is no case for making any disallowance under second limb of Rule 8D(2) towards interest as sufficient own funds were indeed available with the assessee. With regard to third limb , he observed that the assessee herself voluntarily disallowed a sum of Rs. 5 lacs and hence, no further disallowance is called for. Aggrieved, the revenue is in appeal before us on the following grounds:

*(i) In the facts and circumstances of the case, the Ld. CIT(A) erred in allowing the appeal of the assessee on the ground that the net result of interest/expenditure was positive income & further no head of expenditure was attributable to earning exempt income.*

*(ii) The order is erroneous because the Ld. CIT(A) has ignored the fact that the assessee earned a dividend income of Rs. 1,69,63,044/- & interest of Rs. 4,77,417/- from PPF which are exempt income.*

*(iii) The Ld. CIT(A) has ignored the fact that the AO has rightly calculated the disallowance u/s 14A read with Rule 8D. Since, the expenditure debited in the profit and loss account was Rs. 40,73,576/-. The AO restricted the amount at Rs. 39,73,576/- allowing an estimated expense of Rs. 1 lakh in favour of the assessee.*

5. The Ld. DR vehemently relied on the order of the ld. AO and argued with the Ld. CIT(A) ought not to have agreed to the interest netting (positive interest income) and deleted the disallowance made under second limb of Rule 8D(2).

6. We have heard the rival submission and we find that primary argument advanced by the Ld. DR that netting principle of interest considered by the Ld. CIT(A) would become irrelevant as admittedly the assessee in the instant case has got sufficient own funds which is several times more than the investments made by her. These details are very much available in the order of the Ld. CIT(A) and had not been controverted by the Revenue before us. Hence, we hold that the Ld. CIT(A) had rightly deleted the disallowance made u/s 14A read with Rule 8D(2)(ii) of the Rules.

7. With regard to disallowance made towards administrative expenses under Rule 8D(2)(iii), we find that the assessee on her own had disallowed a sum of Rs. 5 lacs in the return of income out of total administrative expenses of Rs. 40,73,576/-. The Ld. AO had not given any satisfaction as to how the said disallowance made by the assessee is incorrect having regard to the accounts of the assessee in terms of Section 14A(2) read with Rule 8D(1) of the Rules. In our considered opinion, without doing the same, the Ld.AO cannot mechanically resort to Rule 8D of the Rules and in the instant

case, the disallowance made by the assessee in the sum of Rs. 5 lacs is reasonable having regard to the accounts of the assessee and accordingly, the Ld. CIT(A) had rightly deleted the further disallowance made by the Ld. AO in this regard. Hence, we do not find any infirmity in the order of the Ld. CIT(A) in this regard. Accordingly, the grounds raised by the Revenue are dismissed.

8. In the result, the appeal of the revenue is dismissed.

**Order pronounced in the Court on 16.08.2017**

Sd/-  
[N.V. Vasudevan]  
Judicial Member

Sd/-  
[ M.Balaganesh ]  
Accountant Member

Dated : 16.08.2017

SB, Sr. PS

Copy of the order forwarded to:

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2. Smt. Madhu Devi Saraf, 30B, Lal Bazar Street, First Floor, Kolkata-700001.
- 3..C.I.T.(A)-XX, Kolkata 4. C.I.T.- Kolkata.
5. CIT(DR), Kolkata Benches, Kolkata.

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By Order

Senior Private Secretary  
Head of Office/D.D.O., ITAT, Kolkata Benches