

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "I", MUMBAI**

**BEFORE SHRI C.N. PRASAD, HON'BLE JUDICIAL MEMBER AND
SHRI N.K. PRADHAN, HON'BLE ACCOUNTANT MEMBER**

ITA NO.5552/MUM/2016 (A.Y: 2013-14)

Raheja Leasing & Investments Private Ltd, 4 th Floor, Raheja Centre Point, CST Road, 294, Vidya Nagari Marg, Santacruz (East), Mumbai – 400 098	v.	Deputy Commissioner of Income tax CC-4(2), Room No.1918, 19 th Floor, Air India Building, Nariman Point, Mumbai 400 021
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PAN NO: AAACR 1875 M

(Appellant)

(Respondent)

Assessee by	:	Shri Sunil Ramani Shri Vinay Sinha
Department by	:	Shri Saurabh Kumar Rai
Date of Hearing	:	01.11.2017
Date of Pronouncement	:	22.11.2017

ORDER

PER C.N. PRASAD

1. This appeal is filed by the assessee against the order of the Learned Commissioner of Income Tax (Appeals)–52, Mumbai dated 29.06.2016 for the Assessment Year 2013-14. The only issue in the appeal of the

assessee is relating to the confirmation of disallowance made u/s. 14A of the Act.

2. The Assessing Officer while completing the assessment noticed that assessee made investments in shares and earning exempt income from such investments. Assessing Officer required the assessee to explain why the provisions of section 14A should not be invoked. Assessee submitted its reply stating that it had not incurred any expenditure for earning exempt income which is proposed to be calculated and disallowed u/s. 14A of the Act. Without prejudice it was submitted that if interest free funds are available to the assessee are sufficient to meet its investments and at the same time assessee had raised a loan, it can be presumed that the investments were made out of interest free funds available. Assessee placed reliance on the decision of the Hon'ble Jurisdictional High Court in the case of CIT v. HDFC Bank Ltd. [366 ITR 505]. However, the Assessing Officer rejected the submissions of the assessee and computed the disallowance u/s. 14A r.w. Rule 8D at ₹.6,43,337/-. On appeal Ld.CIT(A) sustained the disallowance.

3. Before us Learned Counsel for the assessee invited our attention to Page No 14 of the Annual Account which is the balance sheet as on 31.03.2013 relevant for the Assessment Year 2013-14 and submitted that

assessee is having interest free funds of ₹.72,21,000/- in share capital and ₹.12.11 Crores in reserves and surplus aggregating to ₹.12.88 Crores which is in far excess of the investments of ₹.89,13,742/- made in the companies yielding exempt income. The Learned Counsel for the assessee submits that, in view of the decision of the Hon'ble Jurisdictional High Court in the case of CIT v. HDFC Bank Ltd. (supra) which was reiterated in HDFC v. DCIT [383 ITR 529] submits that a presumption can be drawn that investment came out of interest free funds when the interest free funds far exceeds the investments made by the assessee. Therefore, he submits that the disallowance made under Rule 8D(2)(ii) should be deleted.

4. The Ld.DR relies on the orders of the authorities below.

5. We have heard the rival submissions, perused the orders of the authorities below and the material placed before us. On a perusal of the balance sheet, we find that capital, reserves and surplus of the assessee for the Assessment Year 2013-14 stood at ₹.12,88,43,430/- and the investments made by the assessee during the year is only ₹.89,13,742/-. Therefore, the capital, reserves and surplus far exceeds the investments in this case. We also find that the borrowings during this year have come down from ₹.80.60 Crores to 69.70 Crores, therefore, in view of the

decision of the Hon'ble Jurisdictional High Court CIT v. HDFC (supra), we direct the Assessing Officer to delete the disallowance made u/s. 14A r.w. Rule 8D(2)(ii) as worked out by the Assessing Officer at ₹.6,03,966/- and recompute the disallowance accordingly.

6. In the result appeal of the assessee is partly allowed.

Order pronounced in the open court on the 22nd November, 2017.

Sd/-
(N.K. PRADHAN)
ACCOUNTANT MEMBER
Mumbai / Dated 22/11/2017
VSSGB, SPS

Sd/-
(C.N. PRASAD)
JUDICIAL MEMBER

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent.
3. The CIT(A), Mumbai.
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mum