

**IN THE INCOME TAX APPELLATE TRIBUNAL  
AHMEDABAD “D” BENCH, AHMEDABAD**

**[Coram: Pramod Kumar AM and S S Godara JM]**

ITA No. 3313/Ahd/2014  
Assessment Year: 2011-12

**Assistant Commissioner of Income-tax** .....**Appellant**  
*Circle 2(1)(2), Baroda*

**Vs.**

**Munjal Auto Industries Ltd.** .....**Respondent**  
187, GIDC Estate,  
Waghodia, Baroda-391760  
[PAN : AAACG 8588 L]

**Appearances by:**

*VK Singh for the appellant*  
*Surendra Modiani for the respondent*

Date of concluding the hearing : 18.12.2017  
Date of pronouncing the order : 19.12.2017

**O R D E R**

**Per Pramod Kumar AM:**

1. By way of this appeal, the appellant Assessing Officer has challenged correctness of the order dated 23<sup>rd</sup> September 2014, passed by the CIT(A)-III, Baroda, in the matter in the matter of assessment under section 143(3) of the Income-tax Act, 1961, for the assessment year 2011-12.

2. Grievance raised by the appellant is as follows:

*“On the facts and in the circumstances of the case and in law, Ld. CIT(A) erred in deleting the addition to the extent of Rs.56,85,132/- made u/s 14A read with Rule 8D by merely accepting the assessee’s submission and without considering the facts of the case.”*

3. Learned representatives fairly agree that the aforesaid issue is covered, in favour of the assessee, by the order dated 28.11.2016 passed by the coordinate bench, in assessee’s own case for the assessment year 2009-10, wherein the Tribunal has held as under:-

*“12. We find that the submission of the assessee before the CIT(A) a sum of Rs.50,000/- has been disallowed by the assessee itself suo motu has remained uncontroverted. On a broader consideration, we also note that the investments were largely made in the earlier years and has been carry forwarded in the current year with a very few movements therein. The*

*assessee has computed disallowance which was claimed to be sufficient by the assessee having regard to the facts and circumstances of the case. Notwithstanding the aforesaid stand of the assessee on this account, the AO mechanically applied Rule 8D(2)(iii) without examining the merits of the assessee's stand and without recording any satisfaction as to how the disallowance offered by the assessee is incorrect having regard to account of the assessee. We note that no lack of satisfaction with regard to the correctness of the accounts of the assessee in respect of such expenditure in relation to the exempt income has been recorded by the AO as contemplated under section 14A(2) of the Act. We are of the considered view that under the circumstances, where the Revenue has failed to record dissatisfaction on the correctness of the claim of the assessee with respect to disallowance offered, it is not open for it to resort Rule 8D(2)(iii) in terms of IT Rules, 1962. We find that in terms of section 14A of the IT Act r.w. Rule 8D of IT Rules, the onus is on the AO to show how the assessee's claim is incorrect. A bare reading of section 14A of the Act would suggest that its applicability is not automatic. It is hedged by condition prescribed therein. Section 14A inheres in it the concept of reasonableness. The formidable amount of expenditure cannot be said to be attributable to tax-free income by applying a straight jacket formula as per Rule 8D(2)(iii) of the IT Rules without demonstrating incorrectness in the offer of disallowance made by the assessee. Hence, we are disposed to adjudicate the issue in favour of the assessee. Thus, the order of CIT(A) on disallowance of administrative and managerial expenses stands vacated."*

4. We see no reasons to take any other view of the matter than the view so taken by the co-ordinate bench. Respectfully following the views so taken by the co-ordinate bench (supra) in assessee's own case for AY 2009-10 vide ITA Nos.1998 & 2044/Ahd/2012, the issue raised by the Assessing Officer in this appeal is dismissed.

5. In the result, the appeal is dismissed. Pronounced in the open court today on the 19<sup>th</sup> day of December, 2017.

Sd/-

**S S Godara**  
(Judicial Member)

*\*/s/*

**Ahmedabad, the 19<sup>th</sup> day of December, 2017**

Copies to: (1) The appellant (2) The respondent  
(3) Commissioner (4) CIT(A)  
(5) Departmental Representative (6) Guard File

Sd/-

**Pramod Kumar**  
(Accountant Member)

By order

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Assistant Registrar  
Income Tax Appellate Tribunal  
Ahmedabad benches, Ahmedabad