

**IN THE INCOME TAX APPELLATE TRIBUNAL
"G" Bench, Mumbai**

**Before Shri B.R. Baskaran, Accountant Member
and Shri Amarjit Singh, Judicial Member**

ITA No. 2332/Mum/2016
(Assessment Year: 2012-13)

M/s. Tata Investment Corporation Ltd. Elphistone Building 2nd Floor, 10, Veer Nariman Road, Mumbai 400001	Vs.	D C I T - 2(3)(1) Room No. 552, 5th Floor Aayakar Bhavan, M.K. Road Mumbai 400020
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PAN – AA ACT4120F

Appellant

Respondent

Appellant by:	Shri M.M. Golvala & Shri Amey Wagle
Respondent by:	Shri V. Vidhyadhar

Date of Hearing:	28.06.2018
Date of Pronouncement:	28.06.2018

ORDER

Per B.R. Baskaran, AM

This appeal filed by the assessee is directed against the order dated 11.02.2016 passed by the CIT(A)-6, Mumbai and it relates to A.Y. 2012-13.

2. The issue urged in this appeal relates to disallowance of expenses relating to exempt income made under Section 14A of the Income Tax Act (hereinafter "the Act") and also disallowance made for computing book profit under Section 115JB of the Act.

3. We have heard the parties and perused the record. The assessee is an investor company and it earned exempt income of ₹665150 lakhs by way of dividend and ₹5172 lakhs by way of interest on tax free bonds and ₹4696.06 lakhs by way of long term capital gain. The assessee computed the disallowance under Section 14A of the Act at ₹745.46 lakhs. for computing total income under normal provisions of the Act. The assessee

also worked the expenses relating to exempt income for the purpose of computation of book profit under Section 115JB of the Act at ₹552.93 lakhs. The AO noticed that the amount disallowable as per Rule 8D of the I.T. Rules actually worked out to ₹587.78 lakhs. Since the assessee himself has disallowed a sum of ₹745.46 lakhs under Section 14A, the AO did not disturb the working made by the assessee. The AO also accepted the working of expenses relating to exempt income made by the assessee for computing books profit under Section 115JB of the Act.

4. In appellate proceedings the learned CIT(A) held that the amount worked out for disallowance under Section 14A of the Act has to be adopted while computing the book profit under Section 115JB of the Act. In this regard the learned CIT(A) placed reliance on the decision rendered by the Mumbai Bench of the Tribunal in the case of Godrej Consumer Products Ltd. vs. Addl. CIT 48 taxmann.com 293. Accordingly he directed the AO to add the amount computed under Section 14A of the Act for the purpose of Section 115JB of the Act.

5. It is pertinent to note that the income computed under Section 115JB of the Act was assessed as total income in the hands of the assessee for the year under consideration, since the total income computed under the normal provisions of the Act was lower than the book profit. Hence the issue that requires adjudication is whether the learned CIT(A) was justified in directing the AO to adopt the disallowance computed under Section 14A of the Act for the purpose of computing book profit under Section 115JB of the Act.

6. The learned A.R. placed reliance on the decision rendered by the Special Bench in the case of Vireet Investment P. Ltd. (2017) 165 ITD 27 (Del) wherein it was held that the addition under clause (f) of Explanation 1 to Section 115JB(2) relating to exempt income should be computed without resorting to computation contemplated under Section 14A read with Rule 8D of the I.T. Rules. The learned A.R. submitted that an identical issue was considered by the Coordinate Bench in assessee's on

case for A.Y. 2011-12 in ITA No. 1569/Mum/2015 and the Tribunal, vide its order dated 09.02.2018 held that the disallowance worked out under Section 14A of the Act should not be adopted for the purposes of Section 115JB of the Act.

7. We have heard the learned D.R. on this issue and perused the record. In view of the decision rendered by the Special Bench in the case of Vireet Investment P. Ltd., the direction of the learned CIT(A) to adopt the disallowance made under Section 14A of the Act for the purpose of computing book profit under Section 115JB is liable to be set aside. The assessee also took us to the working made by it for ascertaining the expenses relating to exempt income for the purpose of computation of book profit under Section 115JB of the Act. We noticed that the assessee has allocated expenses in the ratio of taxable income and exempt income and the said method was determined by the Department in A.Y. 2000-01. It is stated that the same method is being followed for A.Y. 2000-01 onwards by the assessee. Since a consistent method is being followed by the assessee for more than 10 years and since the allocation of expenses is on the basis of exempt income and taxable income, we are of the view that the computation made by the assessee for determining expenses relating to exempt income for the requirement of provisions of Section 115JB of the Act does not require disturbance. Accordingly we set aside the order of the learned CIT(A) on this issue and direct the AO to accept the computation made by the assessee for the purpose of sec. 115JB of the Act.

8. In the result, the appeal filed by the assessee is treated as allowed for statistical purposes.

Order pronounced in the open court on 28th June, 2018.

Sd/-
(Amarjit Singh)
Judicial Member

Sd/-
(B.R. Baskaran)
Accountant Member

Mumbai, Dated: 28th June, 2018

Copy to:

1. *The Appellant*
2. *The Respondent*
3. *The CIT(A) -6, Mumbai*
4. *The CIT - 2, Mumbai*
5. *The DR, "G" Bench, ITAT, Mumbai*

By Order

//True Copy//

*Assistant Registrar
ITAT, Mumbai Benches, Mumbai*

n.p.