

IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD BENCH

**Before: Shri Rajpal Yadav, Judicial Member
And Shri Amarjit Singh, Accountant Member**

**ITA No. 981/Ahd/2016
Assessment Year 2012-13**

Piramal Finance Pvt. Ltd. 4 th Floor, Piramal Tower Annexe, Ganpatrao Kadam Marg, Lower Parel, Mumbai-400013 PAN: AAACG8457E (Appellant)	Vs	The DCIT, Circle-2(1)(2), Aayakar Bhavan, Vadodara-390007 (Respondent)
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**Revenue by: Shri Kamlesh Makwana, Sr. D.R.
Assessee by: Ms. Urvashi Shodhan, A.R.**

Date of hearing : 04-12-2018
Date of pronouncement : 18-01-2019

आदेश/ORDER

PER : AMARJIT SINGH, ACCOUNTANT MEMBER:-

This assessee's appeal for A.Y. 2012-13, arises from order of the CIT(A)-2, Vadodara dated 25-01-2016, in proceedings under section 143(3) of the Income Tax Act, 1961; in short the Act.

2. The solitary ground of appeal of the assessee is against the decision of Id. CIT (A) of confirming the disallowance of Rs. 6,29,080/- by invoking the

provision of section 14A of the act. on account of expenditure attributable to exempt dividend income

3. The brief fact of this case is that during the assessment proceedings u/s. 143(3) of the act, the assessing officer noticed that assessee has claimed exempt income amounting to Rs. 9,51,000/- u/s. 10(35) of the act. On further verification, he noticed that assessee has not made any disallowance u/s. 14A of the act read with rule 8D of I.T. Rule. On query, the assessee explained that there was no borrowing as on 31st March, 2012 and it had made investment in Mutual Fund from its own fund, therefore, the question of disallowance u/s. 14A of income tax act did not arise. However, the assessing officer has not accepted the explanation of the assessee and computed disallowance as per rule 8D of the IT rule, 1962 to the amount of Rs.6,31,543 and added to the total income of the assessee.

4. Aggrieved assessee has filed appeal before he Id. CIT(A). The Id. CIT(A) has restricted the disallowance to the amount of Rs. 6,29,080/-. The relevant part of decision of Id. CIT(A) is reproduced as under:-

*“4. I have carefully considered the facts on record and submissions of the Ld.AR. First ground pertains to disallowance made u/s 14A as per Rule 8D amounting to Rs. 6,31,543/-. This disallowance consisted of Rs. 2463/-, out of the interest of Rs.13,000/- and Rs. 6,29,080/- being 0.5% of the average value of the investment, **It is noticed that appellant company has received share capital money of Rs. 129.64 crores from Piramal Enterprises Ltd (Formerly PHL Capital PL)**, during the year under consideration. Further there is a direct nexus between the share capital received by the appellant company and investment in Birla Cash Mutual Funds. This direct nexus is verifiable from the bank statement of the appellant with HDFC Bank placed on record. Thus, I find that the appellant has not utilized borrowed funds for the purposes of investment in mutual funds resulting into exempted income. Accordingly, in my considered view, no disallowance out of the interest is called for and accordingly, a disallowance of Rs. 2,463/- made by the AO is directed to be deleted. However, in respect of the disallowance at 0.5% of the average value of the investment on account of administrative expenses, I am of the view that time and energy of the management as well as resources of the company have certainly been utilized by the appellant company for making investment and earning exempted income. Therefore, I hold that disallowance at 0.5% of the average value of the investments is justified for the purposes of*

administrative expenses. This view also gets support from the decisions in the case of Dhampur Sugar Mills Ltd Vs CIT (2014) 51 taxmann.com 508 (All-HC) and ITO Vs RBK Share Broking Pvt. Ltd (2013) 37 taxmann.com 128 (Mum-Trib.) wherein it has been held that Rule 8D mandates disallowance at 0.5% of the average value of the investment even if no interest was disallowable. Accordingly, I uphold the action of AO in this regard and thus disallowance of Rs.6,29,080/- stands confirmed. Appellant partly succeeds in respect of Ground No.1.”

5. We have heard the rival contentions and perused the material on record carefully. It is noticed that assessee has not utilized borrowed fund for the purpose of investment in mutual fund and the investment was made out of its own fund. It is clear that assessee has not incurred any cost of interest for making investment for earning any exempt income . After taking into consideration, the nature of investment made in the mutual fund, we are of the view that it will be reasonable to make disallowance of amount of Rs. 2 lacs as administrative expenditure incurred for earning the aforesaid exempt income. Therefore, we restrict the disallowance to the extent of Rs. 2 lacs. Therefore, the appeal of the assessee is partly allowed.

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

Order pronounced in the open court on 18-01-2019

Sd/-
(RAJPAL YADAV)
JUDICIAL MEMBER
Ahmedabad : Dated 18/01/2019

Sd/-
(AMARJIT SINGH)
ACCOUNTANT MEMBER

आदेश क०० तलम अ० षत / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलार्थ अधिकरण,
अहमदाबाद