

**आयकर अपील अाधिकरण, अहमदाबाद ँयायपीठ**  
**IN THE INCOME TAX APPELLATE TRIBUNAL,**  
**"B" BENCH, AHMEDABAD**

**BEFORE SHRI AMARJIT SINGH, ACCOUNTANT MEMBER**  
**AND**  
**Ms MADHUMITA ROY, JUDICIAL MEMBER**

अपील सं./ITA No.2654/Ahd/2017  
&अध्यायण वर्ष/Asstt. Year:2013-2014

A.C.I.T, Circle-2(1)(1), Ahmedabad.	Vs.	M/s. Gujarat State Financial Services Ltd., Wing-B, 3 <sup>rd</sup> Floor, Khanji Bhavan, 132 Ft. Ring Road, Nr. University Ground, Ahmedabad.  PAN: AAACG5581B
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(Applicant)	(Responent)
Revenue by :	Shri Mudit Nagpal, Sr.D.R,
Assessee by :	Shri Sanjay R Shah, A.R

सुनवाई का ताराख/Date of Hearing : 07/03/2019  
घोषणा का ताराख /Date of Pronouncement: 20/03/2019

**आदेश/O R D E R**

**PER Ms MADHUMITA ROY, JUDICIAL MEMBER:**

The instant appeal filed by the Revenue is against the order dated 22.09.2017, passed by the Learned Commissioner of Income Tax(Appeals)-10, Ahmedabad, , u/s.143(3) of the Income Tax Act, 1961( herein after referred to as ò the Act) arising out of the order dated 03.11.2015 passed by the D.C.I.T, Circle-4, for the Assessment Year 2013-14, whereby and whereunder the disallowance made by the Ld.AO in respect of interest expenditure to the tune of Rs.63,96,733/ has been deleted by the Ld.CIT (A).

2. The assessee filed its return of income on 30.09.2013 declaring total income of Rs.1,38,84,71,620/- which was processed u/s.143(1) of the Act. Under scrutiny under CASS a notice u/s.143(2) of the Act was issued on 04.09.2014 followed by further notice dated 05.06.2015 due to change in incumbent. During the course of Assessment Proceeding upon verification of the balance sheet it was noticed that assessee company has received dividend income of Rs.43,63,860/- from mutual funds. Since the assessee was not been able to justify such investment made in shares from his own fund or from the funds on which no interest payment is made by the assessee the Ld.AO was of the opinion to apply the provision of section 14A and assessee, therefore, was asked to furnish the working as per the provision of section 14A r.w Rule 8D of the Income Tax Rules whereupon the assessee submitted as under:

*“... It is submitted that the expenses in respect of exempt income which are disallowable under Section 14A of the Act have been computed by the assessee at Rs.2,21,205/- and have already been disallowed by the assessee company in its return of income.*

*Without prejudice to the contention that no further disallowance in excess of that which is already made in return of income, the calculation of amount u/s.14A of the I.T. Act as per Rule 8D.*

3. The submission made by the assessee was not found tenable and the Ld.AO ultimately disallowed Rs.65,48,901/- . In appeal the Ld.CIT (A) had given relief to the assessee. Hence the appeal before us.

4. At the time of hearing of instant appeal the Ld.Counsel for the assessee submitted before us that the issue is covered by assessee's own case for Assessment Years 2001-02, 2002-03 & 2004-05 as well as in Assessment Year 2012-13 by the order passed by the Co-ordinate Bench of the Ld.Tribunal in favour of the assessee. A copy of the order passed by the Co-ordinate Bench for the A.Y. 2012-13 has also been handed over to us.

5. The Ld.DR, on the other hand failed to controvert the contentions made by the Ld.Counsel for the assessee.

6. We have heard the respective parties, perused the relevant material available on records. We find that the Ld.CIT(A) deleted the disallowance made in respect of interest expenditure to the tune of Rs.63,96,733/- and confirmed the disallowance of administrative expenditure of Rs.3,73,373/- u/s.14A made by the Ld.AO relying on the order passed by the Ld.Tribunal in assessee own case for Assessment Year 2004-05. While doing Ld.CIT(A) observed as follows:

*‘...10.1 Thus, it is clearly held by the Hon'ble ITAT that the investments made by the appellant as on 31/03/2004 were from its own tax-free investment funds and no borrowed funds were utilized for the same. Further, as evident from the appellant's submission dated 20/09/2017, all the tax-free investments held by the appellant as on 31/03/2013 were held by the appellant on 31/03/2004, I may add that AO has not proved any nexus between borrowed funds and investments made in tax-free securities. Accordingly, in view of the Hon'ble ITAT's Order for AY 2004-05, I am of the opinion that no borrowed funds were utilized for the purpose of making tax-free investments existing as on 31/03/2013. Consequently, there cannot be any interest expenditure allocation for the purpose of making tax-free investments. Though Rule 80 was not applicable for AY 2004-05, in the facts of the case, where all investments are made from own funds and no nexus has been established by AO between borrowed funds and the investments made in tax-free securities. The finding of the order of Hon'ble ITAT is applicable. Therefore, respectfully following the decision of the Hon'ble ITAT for AY 2004-05 in appellant's own case, I delete the disallowance u/s.14A made by the AO in respect of interest expenditure. Since I have deleted the disallowance of interest expenditure u/s. 14A, the other contentions of the appellant viz, investments being strategic in nature or non-recording of satisfaction are academic and are accordingly not dealt with.*

*10.2 Further as regards disallowance of administrative expenses are concerned applying Rule 8D, the appellant has submitted that it had suo moto disallowed Rs, 2,21,205/- under section 14A of the Act in computation of total income (being 1% of the total operating expenses), copy of which forms part of the paper book ('Page No, 1 of the paper-book). In this connection, I have considered the assessment order and the submissions of the appellant Although the appellant has suo-moto disallowed 1 % of the total operating expenses, I am of the opinion that the appellant has made ad-hoc disallowance of 1% of the total operating expenses and no scientific basis has been applied. Therefore,*

*in my view, Rule 8D(iii) has to be applied for computing disallowance of administrative expenses incurred for earning tax-free income and the AO has correctly applied this formula. Accordingly, I confirm the disallowance of Rs. 3,73,373 /-in respect of administrative expenses u/s. 14A,*

*10.3 Thus, in a nutshell, I delete the disallowance made in respect of interest expenditure of Rs. 63,96,733/-, but confirm the disallowance of administrative expenditure of Rs. 3,73,373- u/s. 14A made by the AO in the assessment order. Since the appellant has already disallowed Rs. 2,21,205 in the return of income, the net disallowance of Rs. 1,52,168/- is confirmed. Accordingly, this ground of the appeal is partly allowed in favour of the appellant...’’*

6.1 We have also gone through the order passed by the Co-ordinate Bench in assessee's own case for Assessment Year 2012-13 while deleting the disallowance of interest expenses. The Ld.Tribunal observed as follows:

*“...8. We have heard the rival contentions and perused the materials available on record. As regards the disallowance of interest expenses, we find that the own fund of the assessee exceeds the amount of investment. Therefore no disallowance on account of interest expenses can be made. In this regard, we find support and guidance from the order of this Tribunal in the own case of the assessee in ITA No.1478/Ahd/2013 where the addition on account of interest expenses was deleted by holding as under:*

*“..10. We have given a thoughtful consideration to the orders of the authorities below and with the assistance of the Id. counsel, we have considered the relevant documentary evidences brought on record in the form of a paper book in the light of Rule 18(6) of the I TAT Rules. There is no dispute that the investments have been made in earlier years and not during the year under consideration as can be seen from the exhibits 20 & 21 of the paper book. It is also true that the assessee is having sufficient interest free funds to cover up die investments. It is equally true that the interest income of the assessee is more than the interest expenditure. The ratio laid down by the Hon'ble Bombay High Court in the case of Reliance Utilities and Power Ltd. 313 ITR 340 squarely apply on the facts of the case in hand. The A.O. has not demonstrated any nexus between the borrowed funds and the investments made by the assessee and as mentioned elsewhere, all the investments are brought forward balances from earlier years.*

*11. The assessee is a non banking financial company registered with Reserve Bank of India and is 100% a Government of Gujarat Company and is engaged in the business of providing financial assistance to Government of Gujarat Enterprises.*

*Company's main source of funds are in the form of Inter Corporate Deposits from Government of Gujarat controlled enterprises. The Company also performs Treasury management of surplus funds of Government Board/Corporations and other institutions.*

*12. As per the directions of the Government of Gujarat, the assessee has parked its surplus funds in Government securities and bonds in earlier years. We find that the A.O. has mechanically computed the disallowance u/s. 14A as per Rule 8D without establishing any nexus between the borrowed funds and utilization thereof in making tax exempt investment. In our considered opinion, common expenses which are to be allocated in terms of the formula under rule 8D will be only such interest expenses which are directly attributable to borrowings specifically used for tax free incomes. Moreover, the interest income earned by the assessee is far more in excess of the interest expenditure and the interest free funds are sufficient to cover up investments and the investments are brought forward from earlier financial years. In our considered opinion, facts of the case do not warrant for any disallowance on account of interest expenditure.”*

*In view of the above, we hold that the disallowance of interest expenses in the given facts and circumstances are not warranted...”*

6.2 Taking into consideration the order passed by the Co-ordinate Bench for A.Y.2012-13 as also for A.Y.2004-05 in assessee's own case as relied upon by the Ld.CIT(A) we find no reason to interfere with the order impugned in deleting the disallowance u/s.14A made by the Ld.AO in respect of interest expenditure. The ground of appeal preferred by the Revenue in this regard is devoid of any merit, hence dismissed.

7. In the result, the appeal of the Revenue is dismissed.

**Order pronounced in the Court on 20/03/2019 at Ahmedabad.**

**-Sd-  
(AMARJIT SINGH)  
ACCOUNTANT MEMBER**

**(True Copy)**

Ahmedabad; Dated 20/03/2019

Manish

**-Sd-  
(Ms MADHUMITA ROY)  
JUDICIAL MEMBER**

**आदेश क० त०ल० अ० षत/Copy of the Order forwarded to :**

1. अपीलाथ० / The Appellant
2. ँयथ० / The Respondent.
3. संबं०धत आयकर आयु० त / Concerned CIT
4. आयकर आयु० त(अपील) / The CIT(A)
5. ँभागीय ँत०ना०ध, आयकर अपील०य अ०धकरण / DR, ITAT,
6. गाड०फाईल / Guard file.

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)  
आयकर अपील०य अ०धकरण, अहमदाबाद / ITAT, Ahmedabad