

**आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ 'A' अहमदाबाद ।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**“A” BENCH, AHMEDABAD**

**BEFORE SHRI RAJPAL YADAV, JUDICIAL MEMBER &**  
**SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER**

आयकर अपील सं./I.T.A. Nos. 2590 & 2591/Ahd/2017  
(निर्धारण वर्ष / Assessment Years : 2013-14 & 2014-15)

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| <b>Jhajjar KT Transco Pvt. Ltd.</b><br>101, Part III, GIDC Estate, Sector 28, Gandhinagar, Gujarat - 382028 | <b>बनाम/</b><br>Vs. | <b>Income Tax Officer</b><br>Ward (2), Gandhinagar<br>&<br>Dy.CIT<br>Gandhinagar Circle,<br>Gandhinagar |
| स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AACCCJ3767E  |                     |   |
| (अपीलार्थी /Appellant)  | ..                  | (प्रत्यर्थी / Respondent)   |

|                                     |                               |
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| अपीलार्थी ओर से /Appellant by :     | Shri Kishan M. Mehta,<br>A.R. |
| प्रत्यर्थी की ओर से/Respondent by : | Shri S. K. Dev, Sr.D.R.       |

|                                       |            |
|---------------------------------------|------------|
| सुनवाई की तारीख / Date of Hearing     | 01/05/2019 |
| घोषणा की तारीख /Date of Pronouncement | 29/05/2019 |

**आदेश/ORDER**

**PER PRADIP KUMAR KEDIA - AM:**

The captioned appeals have been filed at the instance of the assessee against the orders of the Commissioner of Income Tax (Appeals), Gandhinagar, ('CIT(A)' in short), dated 18.09.2017 &

19.09.2017 arising in the assessment orders dated 29.03.2016 & 23.12.2016 passed by the Assessing Officer (AO) under s. 143(3) of the Income Tax Act, 1961 (the Act) concerning AYs 2013-14 & 2014-15.

2. The grounds of appeal raised by assessee read as under:

- “1. *That on facts and in law the ld. CIT(A) has erred in not deleting the disallowance for administrative expenses u/s14A of IT Act.*
2. *The ld. CIT(A) has erred in observing that the assessee has not provided any basis for disallowance of expenditure of Rs.10,000/-.*
3. *That the decision of Devarsons Industries Pvt Ltd vs ACIT relied on by the ld. CIT(A) is not applicable on the facts of the case of the assessee.”*

3. By way of solitary ground of its appeal, the assessee seeks to impugn the action of the Revenue authorities in making disallowance under s.14A of the Act.

4. When the matter was called for hearing, the learned AR for the assessee pointed out that the assessee is in receipt of dividend income from certain mutual funds aggregating to Rs.9,90,090/-. The assessee has considered the above dividend income as exempt income. An amount of Rs.10,000/- was however *suo motto* disallowed as expenses attributable to exempt income. The assessee contended that the exempt income is generated from investment in mutual funds and therefore no administrative expenses have been incurred separately by the assessee and

therefore there was no warrant to apply statutory formula specified in Rule 8D(2)(iii) for the purposes of disallowance of administrative expenditure. The learned AR contended that the assessee itself has disallowed a reasonable expenditure of Rs.10,000/- and therefore, there was no warrant to invoke Rule 8D(2)(iii) and thereby making further disallowance of Rs.1,26,000/- on such earning. The learned DR for the Revenue relied upon the order of the lower authorities in its defense.

5. We have carefully considered the rival submissions. The assessee has agitated the disallowance made by the AO under Rule 8D(2)(iii) of the IT Rules. We notice averments made on behalf of the assessee that tax free income earned in the form of dividend has arisen entirely out of mutual funds which are one time investments without any proactive involvement of management *per se*. The surplus funds of the company have been simply parked in the mutual funds. We take cognizance of the arguments advanced on behalf of the assessee that mutual fund investments bear different traits and are different species of investment. The mutual funds are supervised by the experts in field and management charges for such supervision is recovered from the clients. This being so, an investor under the mutual fund separately bears administrative and managerial expenses unlike a case where assessee chooses to make investment in shares directly. In the case of mutual funds, administrative and managerial expenses are factored in the investments itself. In such a scenario, the explanation offered by the assessee for non-applicability of rule 8D(2)(iii) for rigid disallowance appears to

be in congruity with market practice. Accordingly, we do not find it a fit case for resorting to double disallowance of similar expenditure taking shelter of Rule 8D(2)(iii) of the IT Rules. It will be pertinent here to note that a bare reading of Section 14A of the Act suggests that its applicability is not automatic. It is hedged by conditions prescribed therein. Section 14A inheres in it the concept of reasonableness. The formidable amount of expenditure as computed by the AO cannot be said to be attributable to tax free income generated from separately administered mutual funds by applying a straight jacket formula embodied in Rule 8D(2)(iii) of the IT Rules. Thus, we find considerable merit in the plea of the assessee for no additional disallowance over and above *suo motu* disallowance made by the assessee itself in this regard. Hence, we are disposed to adjudicate the issue in favour of the assessee. Thus, the order of the CIT(A) sustaining the disallowance under s.14A of the Act deserves to be vacated.

6. In the result, appeal of the assessee in ITA No. 2590/Ahd/2017 for AY 2013-14 is allowed.

7. The other appeal of the assessee in ITA No. 2591/Ahd/2017 concerning AY 2014-15 involves identical issue of disallowance of administrative expenses under s.14A r.w. Rule 8D(2)(iii) of the IT Rules. The facts and circumstances being identical, the disallowance made by the revenue authorities under Rule 8D(2)(iii) of IT Rules is deleted in parity with the reasonings

provided in ITA No.2590/Ahd/2017 (supra) concerning AY 2013-14 in assessee's own case.

8. In the result, the appeal filed by the assessee in ITA No. 2591/Ahd/2017 for AY 2014-15 is allowed.

9. In the combined result, both appeals of the assessee are allowed.

**This Order pronounced in Open Court on 29/05/2019**

Sd/-  
(RAJPAL YADAV)  
JUDICIAL MEMBER  
Ahmedabad: Dated 29/05/2019

Sd/-  
(PRADIP KUMAR KEDIA)  
ACCOUNTANT MEMBER

True Copy

*S. K. SINHA*

आदेश की प्रतिलिपि अद्येषित / Copy of Order Forwarded to:-

1. राजस्व / Revenue
2. आवेदक / Assessee
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त- अपील / CIT (A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद /  
DR, ITAT, Ahmedabad
6. गार्ड फाइल / Guard file.

By order/आदेश से,

उप/सहायक पंजीकार  
आयकर अपीलीय अधिकरण, अहमदाबाद ।