

आयकरअपीलीयअधिकरण, अहमदाबादन्यायपीठ 'B'- अहमदाबाद।

**IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD – BENCH 'B'**

**BEFORE SHRI PRAMOD KUMAR, VICE PRESIDENT
& SMT. MADHUMITA ROY, JUDICIAL MEMBER**

आयकरअपीलसं.ITA Nos.2173 & 2174/Ahd/2017

निर्धारणवर्ष/Asstt. Years: 2013-14 & 2014-15

DCIT Cir-4(2), Ahmedabad- 380015	Vs.	Karsan Kanji Raghvani 71, Tirthnagar Society, Part 1, Nr. New Nikita Park, Sola Road, Ghatlodiya, Ahmedabad PAN:AAK PR1 351 D
अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)

Assessee by :	Shri Mudit Nagpal, Sr. DR
Revenue by :	Shri Mehul Talera, AR

सुनवाईकीतारीख/Date of Hearing : 13/06/2019

घोषणाकीतारीख/Date of Pronouncement: 01/07/2019

आदेश/ORDER

PER MADHUMITA ROY- JM:

Both the appeals filed by Revenue are directed against the order dated 10.07.2017 passed by the CIT(A)-4, Ahmedabad arising out of the order passed by the AO u/s. 143(3) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') for Financial Years 2013-14 & 2014-15 respectively.

2. The order of the Ld. CIT(A) in deleting the addition made by the Ld. AO on account of disallowance under sec. 14A read with Rule 8D of the Act, 1961 has been challenged before us. The brief facts leading to the case this that the assessee being filed his return of income on 27.09.2013 declaring total income at Rs. 28,92,850/- alongwith computation of income, Profit & Loss account, Balance

Sheet, Tax Audit Report in the form No. 3CB & 3CD. Under scrutiny notice was issued under sec. 142(1) of the assessee on 29.05.2015 & 03.07.2015 alongwith detail questionnaire.

3. Assessee is a builder and developer engaged in the business of real estate also having partnership firms, dividend income as well as salary, interest & profit from various partnership firms during the year under consideration. Upon verification of the Balance Sheet it appears that the assessee invested a sum of Rs. 21,60,18,051/- in Shares/Securities/Mutual funds of different companies and various partnership firms. An amount of interest expenditure debited in the profit and loss account of Rs. 70,89,595/- was also noticed. Dividend income as exempt under sec. 10(34/35) of the Act,1961 of Rs. 4,50,706/- was also claimed by the assessee and share in profit from various partnership firms as exempt income of Rs. 1,58,93,427/- was also claimed. The Ld. AO was of the view that deduction of the expenditure cannot be allowed if the same is incurred on account of exempt income which does not form the part of total income and therefore, the provision of Sec. 14A would be applicable. Explanation was called for to that effect. However, such explanation was not found acceptable on the ground that the assessee has debited interest expenses in the Profit & Loss Account and also made large investment on which he earned tax free income which is not forming a part of the total income. The provision of Sec. 14A Rule 8D the Ld. AO, therefore, disallowed Rs. 67,48,401/-. In appeal the same was deleted by the Ld. CIT(A) hence, the instant appeal before us.

4. At the time of the hearing of the instant appeal the Ld. AR submitted before us that the issue is squarely covered in favour of the assessee which has not been controverted by the Ld. DR. Hence, the prayer made for confirmation of the order by the Ld. AR.

5. Heard the respective parties perused the relevant materials available on record. It appears from the records that before the Ld. CIT(A) submitted as follows:-

“4. During the course of appellate proceeding, the appellant filed written submission as under:

The appellant is a builder and developer of residential and commercial projects. It was noted by the AO that the appellant is a partner in several “partnership firms”. It was noted by the AO that for A.Y. 2013-14, the appellant has invested a sum of Rs. 21,60,18,051/- in share/securities/mutual funds of different companies and partnership firms. It is noticed that amount of interest expenditure debited from the P&L Account of Rs. 70,89,595/-, further the appellant has claimed dividend income as exempt u/s. 10(34/35) of the Act of Rs. 4,50,706/-. The earned profit from those “partnership firms” is Rs. 1,58,93,427/-. The said profit was claimed as exempt u/s. 10(2A) of the IT Act.

Now we are producing the chart showing the profit, interest, remuneration earned from the partnership firm and investment in the partnership firm from whom exempted profit was earned during the year.

<i>Opening Balance as on 01/04/2012</i>	<i>Particulars</i>	<i>Profit</i>	<i>Investment as on 31/03/2013</i>	<i>Interest Income</i>	<i>Remuneration</i>	<i>Dividend</i>
12,80,78,464	Shaligram Corporation	49,77,717	19,46,78,671	91,44,657		
53,28,530	Resham Infrastructure	50,690	53,54,045		1,32,284	
-51,62,209	Shaligram Associates	1,01,81,806	96,71,380			
50,50,161	Shaligram Developers	6,82,214	-5,14,893			
13,32,94,946	<i>Total</i>	1,58,93,427	20,91,89,203	91,44,657	1,32,284	4,50,706

<i>Capital as on 31/03/2013</i>	6,38,88,830
<i>Non-Interest Bearing Fund</i>	10,13,99,660
<i>Total</i>	16,52,88,490
<i>Investment as on 31/03/2013 from which exempt profit earned</i>	20,91,89,203

<i>Interest Paid (A)</i>	70,89,595
<i>Interest Received from partnership Firm from whom exempt profit received Rs. 1,58,93,427</i>	91,44,657
<i>Interest Received from Others</i>	8,32,766
<i>Total Interest received (B)</i>	99,77,423
<i>Net Interest from Partnership Firm</i>	91,44,657 – 70,89,595 = 20,55,062
<i>Net Interest Income (A)-(B)</i>	99,77,423 – 70,89,595 = 28,87,828

The appellant's investment in those firms which are contributing to the exempt income as on 31st of March, 2013 was Rs. 20,91,89,203/-. Though in the balance sheet investment in the partnership firm has shown Rs. 21,59,67,051/-. The balance investment in partnership firm is Rs. 67,77,487/- which has not given any profit during the year. Hence not taken in the figure of Rs.20,91,89,203/-. Investment in company is Rs. 45,00,000/- invested earlier there is dividend received on these shares Rs. 4,50,000/-. Hence investment should not be included. Therefore we have not included this here also. Similarly investment in partnership Firm was Rs. 13,32,94,946/-.

(Considering only those investments which derive exempt income Sarabhai Holdings Pvt. Ltd. v. ACIT, ITA No. 2328/Ahd/2012, dated 11/4/2014 (Ahd.)(Trib.)- Only average of value of investment from which exempt income has been earned is to be considered and not total investment at beginning of year and at end of year in disallowing administrative expenses [AY 2009-10].)

For your ready reference we are reproducing section 14A and Rule 8D which is as under.
“14A. Expenditure incurred in relation to income not includible in total income.-(1) For the purposes of computing the total income under this Chapter, no deduction shall be allowed in respect of expenditure incurred by the assessee in relation to income which does not form part of the total income under this Act.

(2) The Assessing Officer shall determine the amount of expenditure incurred in relation to such income which does not form part of the total income under this Act in accordance with such method as may be prescribed, if the Assessing Officer, having regard to the accounts of the assessee, is not satisfied with the correctness of the claim of the assessee in respect of such expenditure in relation to income which does not form part of the total income under this Act.

(3) The provisions, of sub-section (2) shall also apply in relation to a case where an assessee claims that no expenditure has been incurred by him in relation to income which does not form part of the total income under this Act:

Provided that nothing contained in this section shall empower the Assessing Officer either to reassess under section 147 or pass an order enhancing the assessment or reducing a refund already made or otherwise increasing the liability of the assessee under section 154, for any assessment year beginning on or before the 1st day of April, 2001.”

“21] Method for determining amount of expenditure in relation to income not includible in total income.

8D. (1) Where the Assessing Officer, having regard to the accounts of the assessee of a previous year, is not satisfied with—

(a) the correctness of the claim of expenditure made by the assessee; or
(b) the claim made by the assessee that no expenditure has been incurred, in relation to income which does not form part of the total income under the Act for such previous year, he shall determine the amount of expenditure in relation to such income in accordance with the provisions of sub-rule (2).

(2) The expenditure in relation to income which does not form part of the total income shall be the aggregate of following amounts, namely :-

(i) the amount of expenditure directly relating to income which does not form part of total income;

(ii) in a case where the assessee has incurred expenditure by way of interest during the previous year which is not directly attributable to any particular income or receipt, an amount computed in accordance with the following formula, namely:

$$A \times \frac{B}{C}$$

Where A= amount of expenditure by way of interest other than the amount of interest included in clause (i) incurred during the previous year;

B= the average of value of investment, income from which does not or shall not form part of the total income, as appearing in the balance sheet of the assessee, on the first day and the last day of the previous year;

C= the average of total assets as appearing in the balance sheet of the assessee, on the first day and the last day of the previous year;

(iii) an amount equal to one-half per cent of the average of the value of investment, income from which does not or shall not form part of the total income, as appearing in the balance sheet of the assessee, on the first day and the last day of the previous year.

(3) For the purpose of this rule, the “total assets” shall mean, total assets as appearing in the balance sheet excluding the increase on account revaluation of assets but including the decrease on account of revaluation of assets.]”

After reading Sec. 14A and Rule 8D our submission is as under:-

As per chart, the appellant has earned interest income Rs. 99,77,423 and interest expenditure Rs. 70,89,595. Net interest income is Rs. 28,87,828. Here there is no expenditure claimed but there is interest income hence disallowance is not possible. Once the interest income was more than the interest expenditure then it was wrong on the part of the AO to invoke the provisions of Rule 8D of the Act. We are relying upon the following decisions:-

Safal Reality Pvt. Ltd. v/s. ACIT(OSD), Circle – 8, Ahmedabad; ITA No. 2334/Ahd/2012 & 1842/Ahd/2013. (Pg. No. 67 to 71)

Aditya Medisales Limited v/s. ACIT Range 1, Baroda. (Pg. No. 72 to 75)

DCIT, Circle-4, Kolkata v/s. M.s. Trade Apartment Ltd. (Pg. No. 76 to 77)

Morgan Stanley India Securities v/s. ACIT Circle 1(2), Mumbai (Pg. No. 78 to 82)

ITAT Delhi Modern Info Technology Pvt. Ltd. v/s. ITO; ITA No. 4294/Del/2012 (Pg. No. 83 to 86)

As per the Rule, as reproduced above, the AO has to determine the disallowance having regard to the accounts of the appellant to satisfy himself in respect of the claim of expenditure made by the appellant as well as in respect of the claim whether any expenditure was incurred in relation to the income which does not form part of the total income; hence, exempt under the Act. The AO is first required to determine the amount of expenditure in relation to such exempted income. The appellant has also noted that even for A.Y. 2008-09 the Respected Co-ordinate Bench 'D' ITAT Ahmedabad in the case of Karnavati Petrochem Pvt. Ltd. (supra) has held as under:

“We have heard the rival submissions and perused the material on record. We find that CIT(A) while granting relief to the Assessee has given a finding that no nexus has been established by the AO which the amount incurred by the Assessee for earning the tax free income. He has further noted that in the Assessee’s case the interest income was more than interest expense and thus the Assessee was having net positive interest income and therefore the same cannot be considered for disallowance and for which he place reliance on the decision of Kolkata Tribunal in the case of Trading Apartment Limited and the decision of Tribunal in the case Morgan Stanley India Securities Private Limited. He however considered the administrative expenses to be 0.5% of the average investments and disallowed the same.”

Further, we would like to reproduce a portion of the order of Hon'ble Delhi High Court pronounced in the case of Maxopp Investment Ltd, and Others Vs. CIT as follows:

“Sub-s. (2) of s. 14A provides the manner in which the AO is to determine the amount of expenditure incurred in relation to income which does not form part of the total income. However, if one examines the provision carefully, one would find that the AO is required to determine the amount of such expenditure only if the AO, having regard to the accounts of the assessee, is not satisfied with the correctness of the claim of the assessee in respect of such expenditure in relation to income which does not form part of the total income under the Act. In other words, the requirement of the AO embarking upon a determination of the amount of expenditure incurred in relation to exempt income would be triggered only if AO returns a finding that he is not satisfied with the correctness of the claim of the assessee in respect of such expenditure.

Sub-s. (3) is nothing but an offshoot of sub-s. (2) of s. 14A, Sub-s. (3) applies to cases where the assessee claims that no expenditure has been incurred in relation to income which does not form part of the total income under the Act. In other words, sub-s. (2) deals with cases where the assessee specifies a positive amount of expenditure in relation to income which does not form part of the total income under the Act and sub-s. (3) applies to cases where the assessee asserts that no expenditure had been incurred in relation to exempt income. In both cases, the AO, if satisfied with the correctness of the claim of the assessee in respect of such expenditure or no expenditure, as the case may be, cannot embark upon a determination of the amount of expenditure in accordance with any prescribed method, as mentioned in sub-s. (2) of s. 14A. It is only if the AO is not satisfied with the correctness of the claim of the

assessee. in both cases, that the AO gets jurisdiction to determine the amount of expenditure incurred in relation to such income which does not form part of the total income under the Act in accordance with the prescribed method, the prescribed method being the method stipulated in r. 8D. While rejecting the claim of the assessee with regard to the expenditure or no expenditure, as the case may be, in relation to exempt income, the AO would have to indicate cogent reasons for the same. It is, therefore, clear that determination of the amount of expenditure in relation to exempt income under rule 8D would only come into play when the Assessing Officer rejects the claim of the assessee in this regard.

If one examines sub-rule (2) of rule 8D, the method for determining the expenditure in relation to exempt income has three components. The first component is the amount of expenditure directly relating to income which does not form part of the total income. The second is being computed on the basis of the formula given therein in a case where the assessee incurs expenditure by way of interest which is not directly attributable to any particular income or receipt. The formula essentially apportions the amount of expenditure by way of interest (other than the amount of interest included in clause (i) incurred during the previous year in the ratio of the average value of investment, income from which does not or shall not form part of the total income, to the average of the total assets of the assessee. The third component is an artificial figure-one half percent of the average of the investment, income from which does not or shall not form part of the total income, appearing in the balance-sheets of the assessee, on the first day and the last day of the previous year. It is the aggregate of these three components which would constitute the expenditure in relation to exempt income and it is this amount of expenditure which would be disallowed under section 14A of the Act. It is, therefore, clear that in terms of the rule, the amount of expenditure in relation to exempt income has two aspects- (a) direct, and (b) indirect. The direct expenditure is straightaway taken into account by virtue of clause (i) of sub-rule(2) of rule 8D. The indirect expenditure, where it is by way of interest, is computed through the principle of apportionment.

Section 14A even prior to the introduction of sub-sections (2) and (3) would require the Assessing Office to first reject the claim of the assessee with regard to the extent of such expenditure and such rejection must be for disclosed cogent reasons. It is then that the question of determination of such expenditure by the Assessing Officer would arise. The requirement of adopting a specific method of determining such expenditure has been introduced by virtue of sub-section (2) of section 14A. Prior to that, the assessee was free to adopt any reasonable and acceptable method. So, even for the pre-rule 8D period, whenever the issue of section 14A arises before an Assessing Officer, he has, first of all, to ascertain the correctness of the claim of the assessee in respect of the expenditure incurred in relation to income which does not form part of the total income under the Act. Even where the assessee claims that no expenditure has been incurred in relation to income which does not form part of the total income, the Assessing Officer will have to verify the correctness of such claim. In case, the Assessing Officer is satisfied with the claim of the assessee with regard to the expenditure or no expenditure, as the case may be, the Assessing Officer is to accept the claim of the assessee in so far as the quantum of disallowance under section 14A is concerned. In such eventuality, the Assessing Officer cannot embark upon a determination of the amount of expenditure for the purposes of section 14A (1). In case, the Assessing Officer is not on the basis of the objective criteria and after giving the assessee a reasonable opportunity, satisfied with the correctness of the claim of the assessee, he shall have to reject the claim and state the reasons for doing so. Having done so, the Assessing Officer will have to determine the amount of expenditure incurred in relation to income which does not form part of the total income under the Act. He is required to do so on the basis of a reasonable and acceptable method of apportionment.” Under the totality of the facts and circumstances of the case, when the interest income was more than the interest expenditure then the AO was

not justified to invoke the provisions of Section 14A read with Rule 8D of IT Act. Hence We request pl delete the addition made under Rule 8D(2)(ii) of IT Act of Rs. 58,55,888/-

Before invoking the provisions of sec 14A the AO is required to satisfy himself regarding correctness of claim of assessee in respect of such expenditure in relation to income which doesn't form part of total income under this Act. Here no such satisfaction was demonstrated by the AO in the Assessment Order. Particularly when there is no interest expenditure was claimed but there is Net Interest income of Rs. 28,87,828 (99,77,423 - 70,89,595) and also there is no any administrative expense incurred as shown in the P&L A/c attached herewith(Pg. No.03).

As per the chart shown above the appellant has received taxable income from firms that is interest income Rs. 91,44,657/-and remuneration Rs.1,32,284/- total Rs. 92,76,941/-and tax free income i.e. profit from partnership firm being Rs. 1,58,93,427/-. In this scenario the Ahmedabad Tribunal in case of Shri Vishnu AnantMahajan V/s ACIT Baroda [2012]16ITR 621 (Page No. 87 to 93) has held as under:-

"In such a situation, provision contained in section 14A will come into operation and any expenditure incurred in earning the share income will have to be disallowed. Thus, we agree with the learned CIT(A) that the provision contained in section 14A is applicable to the facts of the case. Further, it has been held in the case of Godrej & Boyce Mfg. Co. Ltd. (supra) that all facts may be taken into consideration for determining the quantum of disallowance to be made. This portion of the judgment is applicable only in respect of determination of quantum of disallowance. The learned CIT(A) has disallowed the expenditure In the ratio of income not eluded in the total income and the income received from the firm. In the absence of any argument regarding any error in this part of the decision, it is held that he was right in doing so. (Pg.No.87-93)

Its our contention that the appellant had major portion interest free fund and that the AO had not established any nexus between the funds invested for earning the interest free income. Further as per chart there is only few fund was invested in the partnership firm during the year.(Opening balance as on 01/04/2012 investment was Rs. 13,32,94,946/- and as on 31/03/2013 Rs. 20,91,89,203/-). Disallowance u/s 14A r.w. Rule 8D - Held that –Hon'ble Jurisdictional High Court in the case of CIT v. HDFC Bank Ltd. 2014 (8) TMI 119 - BOMBAY HIGH COURT has laid down the proposition that, if the assessee s capital, profits, reserves and surplus and current account deposits are higher than the investments in tax free securities, then it would be presumed that the investments made by the assessee would be out of interest free funds available with the appellant.

The appellant further submits that the appellant has contributed Rs. 20.92 crores in the four partnership firms as mentioned above, the appellant has received interest of Rs. 91,44,657 from a firm from whom inprofit was also received, against this the appellant has claimed interest expenses of Rs. 70,89,595 only leaving a surplus of Rs. 20,55,062. Interest of Rs. 8,32,766 received from others hence net interest income surplus is Rs. 28,87,828. the appellant further states that there is no connection between the funds contributed by the appellant and the share of profit received from the partnership firms as mentioned in chart above, being a partnership firm, is governed by the Indian Partnership Act 1932. There is no provision in the said Act as regards the contribution of capital by the partners. In other words, the Act does not contemplate or stipulate capital contribution by the partner as one of the conditions for a partnership firm. Section 4 of the Indian Partnership Act defines partnership to mean the relation between the persons who have agreed to share profit of business carried on by all or any of them acting for all Therefore, the sharing of profit or losses is the determinative factor for the existence of the partnership firm, all the four partnership firms were formed as Partnership firms vide Partnership Deeds attached on page no. as mentioned at the last of the submission given the ref. of enclosures. Nowhere in

the any clauses of the partnerships deeds that contribution of money towards capital or loan were the conditions of admittance of the new partners for sharing of profits by the partners. All the partners, including the appellant are entitled to the profit sharing as per the partnership deeds and the same were not dependent on contribution of funds made by the partners. Clauses of the partnership deeds deals with the, capita/loans introduced by the partners to the firm, relevant clauses of the partnership deeds clearly states that the partners may introduce capital and or give Loan to the firm which shall carry interest @ 9%,12% or 18% annum or any other rate has been mutually agreed upon".

The appellant has earned RS. 91,44,657/- from a firm whose profit is exempt, in comparison to interest paid Rs. 70,89,595 and further the profit sharing is not dependent on contribution of capital this view has been accepted in the case Asstt. Commissioner of LT. 12(3) Vs. M/s. Novel Enterprises. (pl. see page no. 5 to 7 of the enclosures) Regarding disallowance of Rs. 8,92,513/- u/s 14A r.w. rule 8D(2)(iii). Without prejudice, the disallowance as per third limb as contained in rule 8D(2)(iii) could not have been computed at Rs.8,92,513/- when the total expenses incurred by the appellant (other than the amount covered by rule 8D(2)(i) & 8D(2)(ii)) were to the tune of Rs.32,235/-(30000+2235) only. Thus the AO erred in disallowing what the appellant has not even claimed. The total expenditure debited under the head Bank Charges. Legal and consultation fees total of Rs, 32,235/-. Thus, the appellant has claimed only a sum of Rs.32,235/-. It is our submission that certain expenditure is necessary to run the business like Bank Charges. Legal and consultation fees therefore, this expenditure of Rs.32,235/- claimed was justified. The Assessing Officer mechanically applied the Rule 8D(2)(iii) and calculated the disallowance of Rs.8,92,513/- which was more than the total expenditure claimed by the assessee. In an alternative submission, we would like to submit that the disallowance cannot be more than claimed in the profit and loss account on this issue we rely on the decision of ITAT, Delhi Bench Mansarover Investment Ltd. New ... vs Department Of Income Tax on 7 February, 2013 ; ITAT, Delhi Bench 'F' in the case of Renuka Financial Services Ltd, in ITA No.3467/Del/2011 dated 09.08.2012 and also on the decision of ITAT, 7 ITA No.2306/DEU 2013 ITA No.2395/DEL/ 2013 Delhi Bench 'D' in Jindal Equipment Leasing & Consultancy Services Ltd. in ITA No.4222/Del/2012 dated 12.04.2013. ITAT Delhi Modern Info Technology Pvt. Ltd. Vs ITO; ITA No.:4294/Del/2012. Here in our case the expenditure incurred is only Rs. 32,235/- and on the contrary the Ld. AO disallowed under Rule 8D(2)(iii) Rs. 8,92,513/-.The disallowance cannot be more than the expenditure incurred by the appellant. Rule cannot over ride the provision of sec. 14A. As to sec 14A disallowance from the expenditure incurred this means expenditure to be disallowed only upto the expenditure incurred only. It is illogical to disallow which has not been claimed. Hence at the most Rs.32,235/- can be disallowed under Rule 8D(2)(iii) r.w.s 14A. Reproducing last para from ITAT Delhi Modern Info Technology Pvt. Ltd. Vs ITO; ITANo.:4294/Del/2012

"12. By applying the propositions laid down, to the facts of the case we hold that the disallowance cannot exceed the total actual expenditure incurred and claimed by the assessee. In this case the total expenditure claimed by the assessee in the Profit and Loss account is Rs.45,977/-.

Thus the disallowance should be restricted to this amount. Thus we allow this ground in part."

Hers in our case the expenditure claimed in profit and loss account is Rs, 32,235/-. Hence the disallowance cannot be more than Rs. 32,235/-, also these expenditures are not related to the income which is not forming part of total income.

Pls. see recent circular Notification No. So 1949 (E) [F.No.370142/7/2016-TPL], DATED 2-6-2016. (Section 14A disallowance can't exceed total exp.; CBDT specifies new method for disallowance computation)

"In exercise of the powers conferred by section 295 read with sub-section (2) of section 14A of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby makes the following

rules further to amend the Income-tax Rules, 1962, namely: In the income-tax Rules 1962, in Rule 8D,-I. for sub-rule (2), the following sub-rule shall be substituted, namely:-

“(2) The expenditure in relation to income which does not form part of the total income shall be the aggregate of following amounts,

Namely:-

- (i) The amount of expenditure directly relating to income which does not form part of total income; and*
- (ii) An amount equal to one per cent of the annual average of the monthly averages of the opening and closing balances of the value of investment, income from which does not or shall not form part of total income:*

Provided that the amount referred to in clause (i) and clause (ii) shall not exceed the total expenditure claimed by the assessee.”

II. Sub-rule (3) shall be omitted.”

Hence there is no need to make any disallowance. Therefore, total disallowance of Rs. 58,55,888/- + 8,92,513/- = 67,48,401/- should be deleted. Pl. delete the same and oblige.”

6. It is the case of the assessee that the assessee has earned interest income 99,77,425/- and interest expenditure Rs. 70,89,595/- leaving surplus of Rs. 28,87,828/-. Since interest receipts are excess than the expenditure on interest there should not be any disallowance in Rule 14A of the Act in view of several judicial pronouncements including Safal Realty Pvt. Ltd. vs. ACIT passed by the Coordinate Bench in 2334/Ahd/2012 and 1842/Ahd/2013 for A.Ys. 2009-10 and 2010-11 respectively. It is also settled principal that disallowance cannot exceed the total expenditure claimed by the assessee. The appellant had incurred and claimed total expenditure of Rs. 32,235/- (Rs. 2235 + 30,000). In that view of the ratio laid down by the judicial pronouncements as discussed above, the CIT(A) correctly restricted disallowance of Rs. 32,235/- being the total expenditure claimed by the assessee deleting the remaining addition of Rs. 8,60,278/-. We, thus, find no infirmity in such order so as to warrant interference. Hence, the order is passed in affirmative i.e. in favour of the assessee and against the Revenue. Hence, Revenue's appeal is dismissed.

7. In the result, Revenue's appeal is dismissed.

ITA No. 2174/Ahd/2017 A.Y. 2014-15(Revenue's Appeal):-

8. This ground of appeal is identical to that of the issue already been dealt with by us in ITA No. 2173/Ahd/2017 for A.Y. 2013-14 and in the absence of any changed circumstances the same shall apply *Mutatis Mutandis*. Hence, Revenue's appeal is dismissed.

9. In the Result Revenue's appeal is dismissed.

[Order pronounced in the Court on 01-07-2019.]

Sd/-
(PRAMOD KUMAR)
VICE PRESIDENT

Sd/-
(MADHUMITA ROY)
JUDICIAL MEMBER

Ahmedabad; Dated 01/07/2019

TANMAY

TRUE COPY

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent.
3. संबंधितआयकरआयुक्त/ Concerned CIT
4. आयकरआयुक्त(अपील) / The CIT(A)
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण/ DR, ITAT,
6. गार्डफाईल / Guard file.

आदेशानुसार/ BY ORDER

उप/सहायकपंजीकार (Dy./Asstt.Registrar)
आयकरअपीलीयअधिकरण, अहमदाबाद / ITAT, Ahmedabad