

आयकर अपीलिय अधिकरण, अहमदाबाद न्यायपीठ 'C' अहमदाबाद ।

**IN THE INCOME TAX APPELLATE TRIBUNAL
"C" BENCH, AHMEDABAD**

**BEFORE SHRI MAHAVIR PRASAD, JUDICIAL MEMBER
& SHRI AMARJIT SINGH, ACCOUNTANT MEMBER**

आयकर अपील सं./I.T.A. No.1398/Ahd/2017

(निर्धारण वर्ष / Assessment Year:2013-14)

ACIT Circle-2(1)(1), Ahmedabad Room No. 103, First Floor, Navjeevan Trust Building, Ahmedabad- 380014	बनाम/ Vs.	Gujarat State Investments Ltd. 6thFloor, H.K. House, Ashram Road, Ahmedabad
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AAB CG4 649 M		
(अपीलार्थी/Appellant)	..	(प्रत्यर्थी / Respondent)

अपीलार्थी ओर से/Appellant by :	Shri O. P. Sharma, CIT DR
प्रत्यर्थीकीओरसे / Respondentby:	Smt. Arti N. Shah,AR

सुनवाईकीतारीख/Date ofHearing	03/07/2019
घोषणाकीतारीख /Date of Pronouncement	12/07/2019

आदेश/ORDER

PER AMARJIT SINGH - AM:

The appeal filed by the Revenue for A.Y. 2013-14, arise from order of the CIT(A)-2, Ahmedabad dated 17.03.2016, 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 filed against the decision of Ld. CIT(A) in restricting the disallowance under Sec. 14A r.w.r. 8D to Rs. 34,28,519/- as against Rs. 7,40,32,030/- made by the AO.

3. The fact in brief is that the case of the assessee was subject to scrutiny and assessment order under Sec. 143(3) was passed on 01.12.2015. During the course

of assessment the AO has observed that assessee had invested an amount of Rs. 17,08,94,70,223 in shares/securities of different companies. The assessee has claimed dividend income of Rs. 56,23,73,561/- as exempt from tax. However it has only made disallowance of Rs. 4,89,304/- under Sec. 14A of the Act. Therefore, the AO has asked the assessee to explain why not disallowance of expenses incurred for earning exempt income should be computed as per Sec. 14A r.w.r 8D of the I. T. Rule 1962. The assessee has responded that it has not incurred any direct or indirect expenditure for earning exempt income. The assessee has also stated regarding loan from Government from Gujarat of Rs. 550 crores which was borrowed on 30.03.2012 at 9% per annum rate of interest which amount to Rs.49,77,04,918/-. It is further submitted that this loan was given to Gujarat Financial Services Limited (GSFSL) as inter-corporate deposit on which it has earned interest between 8% to 9% and it had offered to tax an amount of Rs. 65,31,75,375/-. It is further stated that aforesaid loan of Rs. 550 crores received from Government of Gujarat was not invested in any equity share or any other tax free income, therefore no disallowance under Sec. 14A r.w.r. 8D should be made. The AO has not accepted the explanation of the assessee. He has stated that assessee has given only general explanation that it has not incurred any expenses relating to any exempt income. The AO has stated that assessee has not submitted any proof or specific explanation and day-to-day fund flow statement to prove that no interest bearing fund has been used in making investment in shares from which exempt income was earned. Therefore, the AO has computed the disallowance as per Sec. 14A r.w.r. 8D of the Act to the amount of Rs. 7,40,32,030/- and added to the total income of the assessee.

4. Aggrieved assessee has filed appeal before the Ld. CIT(A). Ld. CIT(A) has restricted the disallowance to the extent of total expenditure of Rs. 39,87,823/- claimed by the assessee in the profit and loss account. Since the assessee has voluntarily made the disallowance of Rs. 4,89,304/-, therefore, the Ld. CIT(A) has

confirmed the disallowance under Rule 8D(2)(iii) r.w.s. 14A to the amount of Rs. 34,28,519/-.

5. We have heard the rival contentions and perused the material on record. It is undisputed fact that during the year under consideration the assessee has claimed various expenses to the amount of Rs. 38,65,626/- and the depreciation to the amount of Rs. 52,197/- in the profit and loss account. We have perused the decision of the Ld. CIT(A) limiting the disallowance u/s. 14A to the extent of total expenditure claimed by the assessee after reducing an amount of Rs. 4,89,304/- suo motu disallowed by the assessee.

In the light of the above fact we consider that the impugned disallowance cannot exceed the total amount of various expenditure debited in the profit and loss account as elaborated in the findings of the Ld. CIT(A). Therefore, we do not find any infirmity in the decision of Ld. CIT(A). Accordingly, the appeal of the Revenue is dismissed.

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

This Order pronounced in Open Court on	12/07/2019
---	-------------------

Sd/-

**(MAHAVIR PRASAD)
JUDICIAL MEMBER**

Ahmedabad: Dated 12/07/2019

TANMAY

TRUE COPY

आदेश की प्रतिलिपि अग्रहित / 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.

Sd/-

**(AMARJIT SINGH)
ACCOUNTANT MEMBER**

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण, अहमदाबाद ।