



IN THE INCOME TAX APPELLATE TRIBUNAL
"D" BENCH, MUMBAI

BEFORE SHRI SAKTIJIT DEY, JUDICIAL MEMBER AND
SHRI N.K. PRADHAN, ACCOUNTANT MEMBER

ITA no.3333/Mum./2018
(Assessment Year : 2014-15)

R.S. Estate Developers Pvt. Ltd.
Commerz, International Business
Oberaoi Garden City
Off. Western Express Highway
Goregaon (E), Mumbai 400 063
PAN – AABCR6809C

..... Appellant

v/s

Dy. Commissioner of Income Tax
Central Circle-4(1), Mumbai

..... Respondent

ITA no.3911/Mum./2018
(Assessment Year : 2014-15)

Dy. Commissioner of Income Tax
Central Circle-4(1), Mumbai

..... Appellant

v/s

R.S. Estate Developers Pvt. Ltd.
Commerz, International Business
Oberaoi Garden City
Off. Western Express Highway
Goregaon (E), Mumbai 400 063
PAN – AABCR6809C

..... Respondent

Revenue by : Shri D.G. Pansari
Assessee by : Shri R. Muralidhar

Date of Hearing – 12.07.2019

Date of Order – 19.07.2019

ORDER**PER SAKTIJIT DEY, J.M.**

The aforesaid cross appeals arise out of order dated 13th March 2018, passed by the learned Commissioner of Income Tax (Appeals)-52, Mumbai, for the assessment year 2014-15.

2. The only common issue arising in the present cross appeals relate to disallowance made under section 14A r/w rule 8D.

3. Brief facts are, in the course of assessment proceedings, the Assessing Officer noticing that during the year under consideration, the assessee had earned dividend income of ₹ 8,24,79,471, whereas, it has not disallowed any expenditure for earning such income, called upon the assessee to provide a working of disallowance under section 14A r/w rule 8D. In response, it was submitted by the assessee that since it has not incurred any expenditure directly or indirectly for earning dividend income, no disallowance under section 14A of the Act can be made. The Assessing Officer, however, did not accept the explanation of the assessee and proceeded to compute disallowance by applying rule 8D and ultimately disallowed an amount of ₹ 21,96,738, under rule 8D(2)(iii). The assessee challenged the aforesaid disallowance before the first appellate authority.

4. Learned Commissioner (Appeals), after considering the submissions of the assessee and following various judicial precedents including the Special Bench decision of the Tribunal, Delhi Bench, in CIT v/s Vireet Investment Pvt. Ltd., [2017] 82 taxmann.com 415 (Del.) directed the Assessing Officer to compute disallowance under rule 8D(2)(iii) by considering only those investments which have yielded exempt income during the year.

5. At the outset, the learned Authorised Representative submitted that the assessee has instructed him not to contest the grounds raised in its appeal. Whereas, the learned Departmental Representative relied upon the observations of the Assessing Officer.

6. We have considered rival submissions and perused the material on record. After carefully going through the order of the learned Commissioner (Appeals), we are of the view that the direction issued by him to the Assessing Officer is in full conformity with the ratio laid down in the judicial precedents cited by him, including the Special Bench decision of the Tribunal, Delhi Bench, in Vireet Investment (supra). Therefore, we do not find any reason to interfere with the decision of the learned Commissioner (Appeals) in directing the Assessing Officer to consider only those investments which have yielded exempt income during the year for computing disallowance under section 14A r/w rule 8D(2)(iii). It is further noticed, the

disallowance disputed by the Revenue in its appeal amounts to ₹ 21,96,738. Therefore, the tax effect on such disallowance works out to less than ₹ 20 lakh. In view of the aforesaid, the appeal of the Revenue even otherwise would not be maintainable due to low tax effect.

7. In the result, both the appeals are dismissed.

Order pronounced in the open Court on 19.07.2019

**Sd/-
N.K. PRADHAN
ACCOUNTANT MEMBER**

**Sd/-
SAKTIJIT DEY
JUDICIAL MEMBER**

MUMBAI, DATED: 19.07.2019

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The CIT(A);
- (4) The CIT, Mumbai City concerned;
- (5) The DR, ITAT, Mumbai;
- (6) Guard file.

*Pradeep J. Chowdhury
Sr. Private Secretary*

True Copy
By Order

Assistant Registrar
ITAT, Mumbai