

**IN THE INCOME TAX APPELLATE TRIBUNAL
“A” BENCH, AHMEDABAD**

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER AND
SHRI WASEEM AHMED, ACCOUNTANT MEMBER**

ITA No. 424/Ahd/2018
(Assessment Year : 2014-15)

Aquagel Chemicals (Bhavnagar) Pvt. Ltd., 251, Navagam, Kardej, Dist. Bhavnagar – 364 060.	Vs.	DCIT, Circle – 1, Bhavnagar.
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[PAN No. AAKCA 9462 B]

(Appellant)

.. (Respondent)

Appellant by :	Shri Parimal B. Parmar, A.R.
Respondent by :	Shri Satish Solanki, Sr. D.R.

Date of Hearing	30/09/2019
Date of Pronouncement	01/10/2019

ORDER

PER SHRI KUL BHARAT, JUDICIAL MEMBER :

This appeal by the Assessee pertaining to the Assessment Year (A.Y.) 2014-15 is directed against the order of the Ld. Commissioner of Income Tax (Appeals) - 6, Ahmedabad ('CIT' for short) dated 16.01.2018. The assessee has raised the following grounds of appeal:-

- “1. *The learned CIT(A) has erred both in law and on the facts of the case in confirming the action of the AO of invoking the provisions of Rule 8D without recording any dissatisfaction to the claim of appellant.*
2. *The learned CIT(A) has erred both in law and on the facts of the case in confirming disallowance made by the AO U/S.14A of the Act r.w.r. 8D of the Income-tax Rules, 1962 of Rs.11,08,135/-.*

3. *The learned CIT(A) has erred both in law and on the facts of the case in not following the binding decisions of Hon'ble Gujarat High Court allowing credit of owned funds while computing the disallowance u/s 14A r w Rule 8D.*
4. *Both the lower authorities have passed the orders without properly appreciating the facts and they further erred in grossly ignoring various submissions, explanations and information submitted by the appellant from time to time which ought to have been considered before passing the impugned order. This action of the lower authorities is in clear breach of law and Principles of Natural Justice and therefore deserves to be quashed.*
5. *The learned CIT(A) has erred in law and on facts of the case in confirming action of the Ld. AO in levying interest u/s.234A/B/C of the Act.*

The appellant craves leave to add, amend, alter, edit, delete, modify or change all or any of the grounds of appeal at the time of or before the hearing of the appeal.”

2. The only effective ground of this appeal is against disallowance made u/s 14A r.w.r. 8D of the Income Tax Act, 1961 (hereinafter referred as to ‘the Act’).

3. The facts giving rise to the present appeal are that the case of the assessee was picked up for scrutiny assessment and the assessment u/s 143(3) of the Act was framed vide order dated 11.11.2016. While framing the assessment the Assessing Officer made disallowance by invoking the provision of section 14A and applying Rule 8D of the Income Tax Rules, 1962 (hereinafter referred as to ‘the Rule’) amounting to Rs.11,08,135/- thus the Assessing Officer assessed the income at Rs.1,18,39,508/- against the income declared at Rs.1,07,31,373/-. Aggrieved by this the assessee preferred an appeal before the Learned CIT(A) who after contending the submission sustained the addition. Now the assessee is in appeal before the Tribunal.

4. At the outset, the Learned Counsel for the assessee contended that so far disallowance qua interest is concerned authorities below are not justified in making the addition as the assessee has sufficient interest free fund of its own per contra the Learned DR opposed the submission. Learned Counsel placed reliance in the following cases:

- CIT vs. Reliance Industries Ltd. - 410 ITR 466 (SC);
- CIT vs. Torrent Power Ltd. - 363 ITR 474 (Guj);
- CIT vs. Suzlon Energy Ltd. - 354 ITR 630 (Guj);
- CIT vs. Gujarat Power Corporation Ltd. - 352 ITR 583 (Guj);
- CIT vs. Hitachi Home & Life Solutions (I). Ltd. - (2014) 41 taxmann.com 540 (Guj);
- CIT vs. Reliance Utilities & Power Ltd. - 313 ITR 340 (Bom);
- Munjal Sales Corporation vs. CIT - 298 ITR 298 (SC);

In rejoinder, Learned Counsel for the assessee placed reliance working made in the chart. The assessee has stated in chart as under:

Particulars	Balance as at 31.03.2014 (Rs.)	Balance as at 31.03.2013 (Rs.)
(A) Interest free funds : Share capital Research & Surplus	22,00,00,000 <u>1,06,49,675</u> <u>23,06,49,675</u>	22,00,00,000 <u>-53,090</u> <u>21,99,46,910</u>
(B) Investments	6,84,11,238	19,89,87,795
(C) Ratio of interest free funds & Investments (A/B * 100)	3.37 times	1.11 times

5. We have heard the rival submissions, perused the materials available on records and gone through the orders of the authorities below. The fact that the assessee has sufficient free funds is not rebutted by the Revenue by placing any contrary material on record, therefore, we direct the Assessing Officer to delete addition related to interest

component and rest of the addition is sustained. Ground raised in this appeal is partly allowed.

6. In the result, appeal of the assessee in ITA No.424/Ahd/2018 for A.Y. 2014-15 is partly allowed.

This Order pronounced in Open Court on

01/10/2019

Sd/-
(WASEEM AHMED)
ACCOUNTANT MEMBER

Sd/-
(KUL BHARAT)
JUDICIAL MEMBER

Ahmedabad; Dated 01/10/2019

Priti Yadav, Sr.PS

आदेश की प्रतिलिपि अद्येषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)-6, Ahmedabad.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad