

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI 'G' BENCH, MUMBAI
[BEFORE SHRI MANOJ KUMAR AGGARWAL, HON'BLE ACCOUNTANT MEMBER &
MS. MADHUMITA ROY, HON'BLE JUDICIAL MEMBER]**

I.T.A. No. 4594/Mum/2018

Assessment Year: 2013-14

Grindwell Norton Ltd.....Appellant
C/o. Kalyaniwalla & Mistry LLP,
Esplanade House, 2nd Floor,
29, Hazarimal Somani Marg, Fort,
Mumbai - 400 001.
[PAN: AAACG 8725 B]

Vs.

ACIT - 9(3)(2), Mumbai.....Respondent
Room No. 418, 4th Floor,
Aaykar Bhawan, M.K. Marg,
Mumbai - 400 020.

Appearances by:

Shri Akram Khan & Shri Vinit Mehta, CA appeared on behalf of the Assessee.

Shri N. Padmanaban, Sr. DR appeared on behalf of the Revenue.

Date of concluding the hearing : January 07, 2020

Date of pronouncing the order : January 9, 2020

ORDER

PER MS. MADHUMITA ROY, JM

The instant appeal at the instance of the assessee is directed against the order dated 23.05.2018 passed by the Ld. CIT(A) - 56 Mumbai u/s 143(3) read with section 144C(1) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') arising out of the order dated 02.12.2016 passed by the ACIT-9(3)(2), Mumbai for A.Y. 2013-14.

2. The assessee has mainly challenged the orders passed by the authorities below rejecting the contention of the assessee that no disallowances u/s 14A r.w.r 8D lies in respect of investments which has not earned exempt income and the disallowance of expenditure under Rule 8D(2)(iii) should be restricted to Rs. 37,085/-. The facts of the case is this that the assessee during the year under consideration

earned dividend income of Rs. 1,25,54,945/- from various mutual funds and interest on tax free bonds of Rs. 6,09,026/-. The assessee in the return of income suo-moto disallowed Rs. 15,11,494/-. The Assessing Officer disallowed the further amount of Rs. 2,11,771/- u/s 14A r.w.r. 8D. The assessee's case is this that the appellant's own funds is much more than its investment which can be a tax free income and on the basis of presumption that the investment of the assessee have been made out of its own funds, no part of interest can be disallowed. Apart from that the assessee has made out the case that certain investment have also been made by the assessee on which no dividend has been received and the same, therefore, should be excluded for the purpose of computing average investment under Rule 8D(2)(ii) and Rule 8D(2)(iii).

3. At the time of hearing of the instant appeal, the Learned counsel appearing for the assessee submitted before us that on the identical facts, the Hon'ble Tribunal has been pleased to pass an order in favour of the assessee whereby and whereunder the Learned AO has been directed to make disallowance u/s 14A r.w.r. 8D(2)(iii) only in respect of those investments which have yielded exempt income. A copy of the said order passed by the Coordinate Bench in assessee's own case in ITA No. 5479/Mum/2017 for A.Y. 2012-13 has also been submitted before us. On the other hand, the Learned DR relying upon the orders passed by the authorities below.

4. We have heard respective parties and also perused the relevant materials available on record. It appears from the record that the assessee's total own funds as on 31.03.2013 was of Rs. 521,22.61 lacs and the assessee has made investment which can earn tax free income as on 31.03.2013 was to the tune of Rs. 30,84.44/-. The details of such investments has also been provided to the authorities below by the assessee which has been noted at paragraph 3 of page 8 of the order passed by the Ld. CIT(A).

5. The assessee's case is this that no disallowance u/s 14A is called for in relation to those investments wherefrom no exempt income have earned. We have further perused the order passed by the Coordinate Bench in ITA No. 5479/Mum/2017. We find that relying upon the ratio laid down in the judgement passed by the Special Bench of the Hon'ble Tribunal in the case of Vireet Investment, the Coordinate Bench has been pleased to direct the Revenue to make disallowance u/s 14A Rule 8D(2)(iii) only in respect of those investments which have yielded exempt income.

6. The case of the assessee, that the investments on which no dividend has been received it should be excluded for the purpose of computing average investments under Rule 8D(2)(iii) of the Act, is, therefore, seems to be justified which has already been considered by the Coordinate bench in assessee's case for A.Y. 2012-13. In that view of the matter respectfully relying upon the same, we direct the Ld. AO

to exclude those investments on which no dividend has been received by the appellant in making disallowance u/s 14A Rule 8D(2)(iii).

7. In the result, the appeal of the assessee is allowed for statistical purposes.

Order Pronounced in the Open Court on 9 January, 2020.

Sd/-
(MANOJ KUMAR AGGARWAL)
ACCOUNTANT MEMBER

Sd/-
(MADHUMITA ROY)
JUDICIAL MEMBER

Dated: 9/01/2020

Biswajit, Sr. PS

Copy of the order forwarded to:

1. *Grindwell Norton Ltd., Mumbai.*
2. *ITO -19(3)(4), Mumbai.*

3. CIT(A)-
4. CIT- ,
5. CIT(DR), Mumbai Benches, Mumbai.

True copy
By order

Assistant Registrar
ITAT, Mumbai Benches