

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

**BEFORE SHRI SAKTIJIT DEY, JUDICIAL MEMBER AND SHRI RAJESH  
KUMAR, ACCOUNTANT MEMBER**

**ITA No.6329/MUM/2018  
Assessment Year: 2015-16**

DCIT, Central Circle-3(3), Mumbai	Vs.	Mentor Capital Ltd.  713 Raheja Centre, Nariman Point, Free Pass Journal Road, Mumbai, Pin-400021.  <b>PAN: AACCP7995G</b>
(Appellant)		(Respondent)

**Present for:**

Appellant by : Jothilakshmi Nayak, Sr. DR  
Respondent by : None

Date of Hearing : 09.01.2020  
Date of Pronouncement : 29.01.2020

**ORDER**

**Per Rajesh Kumar, Accountant Member:**

The present appeal has been preferred by the Revenue against the order dated 14.08.2018 of the Commissioner of Income Tax (Appeals) [hereinafter referred to as the CIT(A)] relevant to assessment year 2015-16.

2. The only issue raised by the Revenue is against the deletion of addition of Rs.2,93,38,160/- by ld. CIT(A) as made by the AO u/s

14A r.w.r 8D(2)(ii) without appreciating the fact that the assessee's case is not covered by the ratio of Bombay High Court in the case of HDFC Bank and Reliance Utilities”.

3. The facts in brief are that the assessee has earned exempt income during the year and made suo motto disallowance u/s 14A of the Act r.w.r. 8D of Income Tax Rules at Rs.187,14,283/-. Accordingly the AO called upon the assessee to file the working of suo motto disallowance and also show cause as to why the provisions of section 14A r.w.r 8D should not be applied. The AO came to the conclusion on the perusal of the reply of the assessee no books of accounts were maintained in respect of investments and therefore there is no one to one nexus between expenses and exempt income yielding investments and accordingly held that the working of the disallowance of the assessee in respect of the exempt income is not correct. Accordingly, the disallowance was calculated at Rs.4,80,52,443/- comprising 293,38,160/- under Rule 8D(2)(ii) and Rs.187,14,283/- under Rule 8D(2)(iii). The AO made addition of Rs.2,93,38,160/- after allowing credit of suo motto disallowance by framing assessment u/s 143(3) dated 22.06.2017.

4. In the appellate proceedings, the ld. CIT(A) partly allowed the appeal of the assessee by following the decision of jurisdictional High Court in the case of HDFC Bank ITA No.330 of 2012 and came to the conclusion that no disallowance under Rule 8D(2)(ii) is required to be made as assessee has more own funds than the investments which yielded exempt income during the year whereas disallowance u/s 14A r.w.r 8D(2)(iii) is confirmed.

5. After hearing both the parties and perusing the material on record, we observe that in this case the ld. CIT(A) has recorded a finding of fact that assessee's own funds are far more than the investments in the securities and therefore no disallowance is called for in pursuant to the decision in the case of HDFC Bank (supra). Accordingly, we are inclined to uphold the order of CIT(A) on this issue by sustaining the appeal of the Revenue.
6. In the result, the appeal of the Revenue is dismissed.

**Order pronounced in the open court on 29.01.2020.**

**Sd/-  
(Saktijit Dey)  
JUDICIAL MEMBER**

**Sd/-  
(Rajesh Kumar)  
ACCOUNTANT MEMBER**

Mumbai, Dated: 29.01.2020.

RS, Sr. P.S.

Copy to: The Appellant  
The Respondent  
The CIT, Concerned, Mumbai  
The CIT (A) Concerned, Mumbai  
The DR Concerned Bench

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By Order

Dy/Asstt. Registrar, ITAT, Mumbai.

		Date	Initial	
WHETHER DICTATION PAD ENCLOSED WITH THE FILE : Yes/No (as the order has been typed with the help of manuscript)				
1.	Draft dictated on			Sr.PS
2.	Draft placed before author			Sr.PS
3.	Draft proposed & placed before the second member			JM/AM
4.	Draft discussed/approved by Second Member			JM/AM
5.	Approved Draft comes to the Sr.PS/PS			Sr.PS
6.	Date of pronouncement			Sr.PS
7.	File sent to the Bench Clerk			Sr.PS
8.	Date on which file goes to the Head Clerk			
9.	Date of dispatch of Order			