

आयकर अपीलीय अधिकरण "बी" न्यायपीठ पुणे में ।  
IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH, PUNE

BEFORE SHRI D. KARUNAKARA RAO, AM AND  
SHRI LALIET KUMAR, JM

आयकर अपील सं. / ITA No. 2243/PUN/2017

निर्धारण वर्ष / Assessment Year : 2012-13

Kirloskar Proprietary Ltd.  
13A, Kirloskar Kisan Compound,  
Karve Road, S. No.52/1, Kothrud,  
Pune-411 038.  
PAN : AAACK7506Q

.....अपीलार्थी / Appellant

**बनाम / V/s.**

The Assistant Commissioner of Income Tax,  
Circle-14, Pune

.....प्रत्यर्थी / Respondent

आयकर अपील सं. / ITA No. 2244/PUN/2017

निर्धारण वर्ष / Assessment Year : 2013-14

Kirloskar Proprietary Ltd.  
13A, Kirloskar Kisan Compound,  
Karve Road, S. No.52/1, Kothrud,  
Pune-411 038.  
PAN : AAACK7506Q

.....अपीलार्थी / Appellant

**बनाम / V/s.**

The Deputy Commissioner of Income Tax,  
Circle-14, Pune

.....प्रत्यर्थी / Respondent

Assessee by : Shri C.H. Naniwadekar  
Revenue by : Shri Deepak Garg

सुनवाई की तारीख / Date of Hearing : 11.02.2020

घोषणा की तारीख / Date of Pronouncement : 11.02.2020

### **आदेश / ORDER**

**PER LALIET KUMAR, JM :**

These two appeals preferred by the common assessee emanates from the different orders of the Ld.CIT(Appeals)-7, Pune dated 15.06.2017 & 29.05.2017 for the assessment years 2012-13 & 2013-14 respectively as per the following common ground of appeal on record:

**“1. Disallowance of Expenses u/s.14A.**

*The learned CIT(A) erred on facts and in law in confirming the disallowance of expenses of Rs.3,64,806/- u/s.14A on the ground that the assessee has not shown any expense towards earning of exempt income. He failed to appreciate the fact that the company had invested in the Mutual Funds and any cost incurred by the Mutual Fund agency was recovered by them directly at the time of investment or redemption as the case may be by increasing or reducing the NAV which was directly adjusted against the purchase or sale price of Mutual Fund units by the company and the same is not debited to books of account. He further failed to appreciate the fact that in the assessee's own case in AY 2010-11, the Hon'ble ITAT Bench "B" Pune had restricted the disallowance to Rs.75,000/-.*

*2. The assessee craves leave to add, alter, delete or substitute all or any of the above grounds of appeal.”*

2. At the time of hearing, the Ld. AR of the assessee has drawn our attention at Para 9 to the decision of Co-ordinate Bench of the Tribunal, Pune in assessee's own case for A.Y.2010-11 in ITA No.548/PN/2014 to the following effect:

*“9. Disallowances u/s.14A : The Assessing Officer has made disallowances of Rs.5,63,520/- u/s. 14A r.w. Rule 8D on account of administrative expenses incurred on investments. The contention of the assessee is that the assessee has made investment in Mutual Funds alone. To substantiate his contentions the assessee has placed on record account statements of various Mutual Funds at pages 3 to 30 of the paper book. Admittedly, the assessee has not made any disallowances*

*in respect of interest free income earned on investment made. The contention of ld. AR is that in all Mutual Funds where the assessee has made investment, dividend is reinvested in the Scheme. It has been further contended that Mutual Fund agencies recover the expenditure for managing portfolio at the time of investment or redemption as the case may be and accordingly adjust NAV of units purchased. The fact that the assessee has invested in Mutual Funds where the dividend income is reinvested in the scheme has not been disputed by the Department. After considering the totality of the facts we are of the view that the assessee must have been incurring some administrative cost in managing the Mutual Funds. Therefore, to meet the ends of justice we disallow Rs.75,000/- u/s. 14A of the Act as expenditure towards earning of interest free income. Accordingly, ground No. 1 raised in the appeal by the assessee is partly accepted.”*

2.1 The Ld. AR of the assessee further submitted that there is no change in facts except the assessment years i.e. A.Ys.2012-13 & 2013-14. During the assessment years under consideration, in A.Y. 2012-13, the assessee has earned dividend income of Rs.45,83,084/- against which the Assessing Officer had made disallowance of Rs.3,64,806/-. Similarly for the assessment year 2013-14, the assessee has earned exempt income of Rs.34,42,223/- against which the Assessing Officer has made disallowance of Rs.2,02,385/- by invoking Rule 8D(2)(iii).

3. The Ld. DR relied upon the orders of the Assessing Officer as well as the Ld. CIT(Appeals) and submitted that provisions of Rule 8D(2)(iii) are required to be applied in the cases of the assessee.

4. We have heard the rival contentions and perused the materials available on record. We find the Co-ordinate Bench of the Tribunal, Pune in assessee's own case (supra.) has restricted the disallowance and respectfully following the same reasoning, for the assessment year 2012-13, disallowance is restricted to Rs.1,50,000/- and for the assessment year 2013-14, disallowance is restricted to Rs.1,25,000/-. We order accordingly.

5. In the result, **both the appeals of the assessee are partly allowed.**

Order pronounced on 11<sup>th</sup> day of February, 2020.

Sd/-  
**D. KARUNAKARA RAO**  
**ACCOUNTANT MEMBER**

Sd/-  
**LALIET KUMAR**  
**JUDICIAL MEMBER**

पुणे / Pune; दिनांक / Dated : 11<sup>th</sup> February, 2020.  
SB

**आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(Appeals)-7, Pune.
4. The CIT-6, Pune.
5. विभागीय प्रतिनिधि , आयकर अपीलीय अधिकरण, "बी" बेंच,  
पुणे / DR, ITAT, "B" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

// True Copy //

आदेशानुसार / BY ORDER,

निजी सचिव / Private Secretary  
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.

		Date	
1	Draft dictated on	11.02.2020	Sr.PS/PS
2	Draft placed before author	11.02.2020	Sr.PS/PS
3	Draft proposed and placed before the second Member		JM/AM
4	Draft discussed/approved by second Member		AM/JM
5	Approved draft comes to the Sr. PS/PS		Sr.PS/PS
6	Kept for pronouncement on		Sr.PS/PS
7	Date of uploading of order		Sr.PS/PS
8	File sent to Bench Clerk		Sr.PS/PS
9	Date on which the file goes to the Head Clerk		
10	Date on which file goes to the A.R		
11	Date of dispatch of order		