



ITA No.5383 & 5384/Mum/2018  
Ramgopal Textiles Ltd.  
Assessment Years :2013-14 & 2014-15

**आयकर अपीलीय अधिकरण “डी” न्यायपीठ मुंबई में।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**“D” BENCH, MUMBAI**

**माननीय श्री अमरजीत सिंह, न्यायिक सदस्य एवं**  
**माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।**  
**BEFORE HON’BLE SHRI AMARJIT SINGH, JM AND**  
**HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM**

आयकरअपील सं./ I.T.A. No.5383/Mum/2018  
(निर्धारण वर्ष / Assessment Year: 2013-14)

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आयकरअपील सं./ I.T.A. No.5384/Mum/2018  
(निर्धारण वर्ष / Assessment Year: 2014-15)

<b>M/s. Ramgopal Textiles Ltd.</b> 701, Tulsiani Chambers Free Press Journal Marg Nariman Point, Mumbai-400 021.	<b>बनाम/</b> <b>Vs.</b>	<b>DCIT-3(3)(1)</b> Aaykar Bhavan Mumbai-400 020.
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. <b>AAACR-0435-P</b>		
(आपीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

<b>Assessee by</b>	:	Shri J.P. Bairagra-Ld. AR
<b>Revenue by</b>	:	Ms. Jyoti Lakshmi Nayak-Ld.DR

सुनवाई की तारीख/ <b>Date of Hearing</b>	:	10/02/2020
घोषणा की तारीख / <b>Date of Pronouncement</b>	:	10/02/2020

**आदेश / ORDER**

**Manoj Kumar Aggarwal (Accountant Member)**

1. Aforesaid appeals by assessee for Assessment Years [in short referred to as ‘AY’] 2013-14 and 2014-15 contest separate orders of Ld. first appellate authority on certain common grounds of appeal. Since the issues were common, the appeals were heard together and are now



being disposed-off by way of this common order for the sake of convenience and brevity. First, we take up appeal for AY 2013-14.

**ITA No. 5383/Mum/2018, AY 2013-14**

2.1 This appeal contests the order of Ld. Commissioner of Income-Tax (Appeals)-8, Mumbai, [in short referred to as 'CIT(A)'], dated 18/06/2018 on following grounds: -

1. On the facts and in the circumstances of the case and in law, the learned Commissioner of Income Tax (Appeals) has erred in confirming the disallowance made under Section 14A of the Income Tax act, 1961 to the extent of exempted income earned of Rs.23,56,611/-. Further, the same was added to total Income while calculating Minimum Alternate Tax under Section 115JB of the Income Tax Act, 1961.
2. The Appellant prays that the disallowance of Rs. 23,56,611/- to be deleted.

As evident, the sole subject matter of appeal is disallowance u/s. 14A.

2.2 Briefly stated, the assessee being resident corporate assessee stated to be engaged in financing & trading of fabrics was assessed for year under consideration u/s. 143(3) on 04/12/2015 wherein its income was determined at Rs.113.51 Lacs under normal provisions after sole disallowance u/s 14A for Rs.25.10 Lacs as against returned income of Rs.88.41 Lacs e-filed by the assessee on 19/09/2013. This disallowance u/s 14A was also made while computing *Book Profits* u/s 115JB. The perusal of quantum assessment order reveal that the assessee has paid taxes as per the provisions of Sec. 115JB.

2.3 During assessment proceedings, it transpired that assessee earned exempt dividend income of Rs.24.10 Lacs and offered suo-moto disallowance u/s 14A for Rs.0.54 Lacs while computing its income. The assessee submitted that investments were out of own funds and therefore no interest disallowance would be warranted. However,



rejecting assessee's plea, Ld. AO computed aggregate disallowance of Rs.25.64 Lacs u/s 14A read with Rule 8D which comprised-off of direct expense disallowance u/r 8D(2)(i) for Rs.0.51 Lacs, interest disallowance u/r 8D(2)(ii) for Rs.20.74 Lacs and indirect expense disallowance u/r 8D(2)(iii) for Rs.4.38 Lacs. After adjusting the suo-moto disallowance, the net disallowance thus worked out to be Rs. 25.10 Lacs which was added while computing income under normal provisions as well as while computing Book Profits u/s 115JB.

3. The learned CIT(A), upon perusal of factual matrix as well as assessee's submissions, directed Ld. AO to restrict the disallowance to Rs.24.10 Lacs, being exempt income earned by the assessee. The Ld. CIT(A) also confirmed the action of Ld.AO in making the said disallowance while computing Book Profits u/s 115JB. Aggrieved, the assessee is under further appeal before us.

4. The Ld. Authorized Representative for Assessee (AR), submitted that own funds far exceeded the investments made by the assessee and unless the nexus of borrowed funds with that of investments made by the assessee was established, interest disallowance would not be justified. Reliance was placed on the binding decision of Hon'ble Bombay High Court rendered in **CIT V/s HDFC Bank Ltd. (49 Taxmann.com 335) & Reliance Utilities & Power Ltd. (313 ITR 340)** for the submissions that a presumption was to be drawn in assessee's favor that the investments were out of free funds available with the assessee. The Ld. AR also raised a plea that for the purpose of disallowance, only those investments were to be considered which actually yielded any exempt income during the year. Lastly, Ld. AR assailed adjustment of



disallowance u/s 14A while computing Book Profits u/s 115JB on the strength of decision of Delhi Tribunal (Special Bench) rendered in ***ACIT Vs. Vireet Investment (P.) Ltd. [82 Taxmann.com 415]***. The Ld. DR submitted that the disallowance made by lower authorities was fair and reasonable.

5. We have duly considered the rival submissions and perused relevant material on record including documents placed in the paper-book. We have also deliberated on judicial pronouncements as cited before us. Upon perusal of assessee's financial statements as placed on record, we concur with the submissions of Ld. AR that assessee's own funds far exceeded the investments held by the assessee which is evident from the fact that the assessee has year-end share capital and free reserves aggregating to Rs.17.25 Crores as against investments of Rs.9.16 Crores held by the assessee. Further, the incremental reserves during the year far exceeds the incremental investments made by the assessee during the year. In such a case, unless nexus of borrowed funds vis-à-vis investments made by the assessee was established by Ld. AO, a presumption was to be drawn in assessee's favor that the investments were out of own funds. The cited case laws, which are binding in nature, squarely apply to facts of the case. Therefore, we hold that on given factual matrix, interest disallowance u/r 8D(2)(ii) would not be warranted. Therefore, we delete the same.

6. So far as the disallowance of direct expenditure u/r 8D(2)(i) is concerned, we find that the assessee has identified direct expenditure in the shape of demat charges and securities transactions charges for Rs.53,389/- and offered suo-moto disallowance of the same in its



computation of income. These expenses are directly relatable to earning of exempt income and the same has already been disallowed by the assessee while computing its income under normal provisions. However, the same has not been added back while computing Book Profits u/s 115JB. Keeping in view the clause (f) to explanation-1 to Section 115JB (2), the same would be added back while computing Book Profits u/s 115JB. The Ld.AO is directed to add back the same while making computations u/s 115JB.

7. So far as the disallowance of indirect expenditure u/r 8D(2)(iii) is concerned, the Ld. AO is directed to consider only those investments which have yielded exempt income during the year and add back the same while computing income under normal provisions. However, the same would not be added back while making computations u/s 115JB as held by Delhi Tribunal (Special Bench) in ***ACIT Vs. Vireet Investment (P.) Ltd. [82 Taxmann.com 415]***.

8. Resultantly, the appeal stands partly allowed in terms of our above order.

**ITA No. 5384/Mum/2018, AY 2014-15**

9. Facts are pari-materia the same in this year. The assessee earned exempt income of Rs.32.7 Lacs and offered suo-moto disallowance of Rs.26,416/-. However, Ld. AO, applying Rule 8D, computed aggregate disallowance of Rs.38.07 Lacs and added the same to the income of the assessee under normal provisions as well as while making computations u/s 115JB. The Ld. CIT(A) directed Ld. AO to restrict the disallowance to the extent of exempt income earned by the assessee.



ITA No.5383 & 5384/Mum/2018  
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10. Facts and circumstances being pari-materia the same, our adjudication as given for AY 2013-14 shall apply *mutatis mutandis* to this year also. The Ld. AO is directed to recompute the income under normal provisions as well as u/s 115JB in terms of our above order.

11. Resultantly, the appeal stands partly allowed in terms of our above order.

### **Conclusion**

12. Both the appeals stand partly allowed in terms of our above order.

*Order pronounced in the open court on 10<sup>th</sup> February, 2020.*

**Sd/-**

**(Amarjit Singh)**

न्यायिक सदस्य / **Judicial Member**

**Sd/-**

**(Manoj Kumar Aggarwal)**

लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 10/02/2020  
Sr.PS, Jaisy Varghese

### **आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त(अपील) / The CIT(A)
4. आयकरआयुक्त/ CIT– concerned
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, मुंबई/ DR, ITAT, Mumbai
6. गार्डफाईल / Guard File

**आदेशानुसार/ BY ORDER,**

**उप/सहायक पंजीकार (Dy./Asstt.Registrar)**  
**आयकरअपीलीयअधिकरण, मुंबई / ITAT, Mumbai.**