

IN THE INCOME TAX APPELLATE TRIBUNAL  
AHMEDABAD òBö BENCH

**Before: Shri Amarjit Singh, Accountant Member  
And Ms. Madhumita Roy, Judicial Member**

**ITA No. 2044/Ahd/2018  
Assessment Year 2015-16**

The DCIT, Cir-1(1)(1), Ahmedabad (Appellant)	Vs	Adani Wilmar Ltd. 3 <sup>rd</sup> Floor Fortune House, Navrangpura, Ahmedabad-380009 PAN: AABCA8056G (Respondent)
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**Cross Objection No. 82/Ahd/2019  
(In ITA No. 2044/Ahd/2018)  
Assessment Year 2015-16**

Adani Wilmar Ltd. 3 <sup>rd</sup> Floor Fortune House, Navrangpura, Ahmedabad- 380009 PAN: AABCA8056G (Appellant)	Vs	The DCIT, Cir-1(1)(1), Ahmedabad (Respondent)
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**Revenue by: Shri Kishan Vyas, CIT-D.R.  
Assessee by: Shri Biren Shah, A.R.**

Date of hearing : 20-02-2020  
Date of pronouncement : 20-02-2020

**आदेश/ORDER**

**PER : AMARJIT SINGH, ACCOUNTANT MEMBER:-**

This assessee's appeal for A.Y. 2015-16, arises from order of the CIT(A)-1, Ahmedabad dated 28-08-2018, in proceedings under section 143(3) of the Income Tax Act, 1961; in short the Act.

2. The revenue has filed appeal against the decision of Id. CIT(A) in deleting the addition for Rs. 13,55,80,000/- made by the assessing officer on account of disallowance u/s. 14A r.w.r. Rule 8D of the I.T. Act and in deleting the similar addition while computing book profit u/s. 115JB of the act. The assessment u/s. 143(3) of the act was completed on 30<sup>th</sup> Nov, 2017. During the course of assessment on verification of the detail, the assessing officer noticed that assessee company has made investment in shares the income from which is exempt from taxes. On verification of P & L account the assessing officer found that assessee has claimed expenditure incurred on account of interest payment on loans during the year under consideration. The assessing officer was of the view that assessee had not disallowed any expenses pertaining to exempt income not included in the total income. Therefore, vide notice u/s. 142(1) of the act the assessee was asked to explain why not provision of section 14A of the Act r.w.r. 8D of the I.T. Act should be attracted in the case of the assessee. The assessee has given detailed explanation reported at page no. 2 to 7 of the assessment order stating that assessee company has not earned dividend income or any other income which was not chargeable to tax. The assessing officer has not agreed with the submission of the assessee and computed expenses disallowable u/s. 14A r.w.r. 8D to the amount of Rs. 13,55,80,000/- and

added to the total income of the assessee. The assessing officer has also added this amount disallowed u/s. 14A to the book profit computed u/s. 115JB of the act.

3. Aggrieved assessee has filed appeal before the Id. CIT(A). The Id. CIT(A) has deleted both the additions after following the finding of his predecessor for assessment year 2014-15 in the case of the assessee itself.

4. We have heard rival contentions and perused the material on record. It is undisputed fact that assessee has neither earned any exempt income nor claimed any exempt income during the year under consideration. On perusal of the decision of Id. CIT(A), it is noticed that the impugned addition has been deleted holding that assessee has not earned any exempt income which based on similar facts discussed in appellate order in the case of the assessee itself for assessment year 2014-15. While deleting the aforesaid addition, the Id. CIT(A) has also placed reliance on the decision of Honøble Gujarat High Court in the case of Corroteck Energy Pvt. Ltd. 45 taxman.com 116 on identical disallowance u/s. 14A wherein it has been held that where the assessee has not made claim for exemption of any income from payment of tax no disallowance could be made u/s. 14A of the act. It is further noticed that Id. CIT(A) has also held that disallowance u/s. 14A does not call for addition to book profit u/s. 115JB of the act after following the decision of special Bench of ITAT Delhi in the case of ACIT vs. Vineet Investment Pvt. Ltd. (2017) 82 taxman.com 415 (Delhi Trib). In the above referred decision of Special Bench of Delhi ITAT, it is held that expenditure incurred to exempt income not to be added for computing book profit u/s. 115JB of the

act. Considering the above facts and judicial findings, we do not find any reason to interfere in the decision of Id. CIT(A), therefore, both the grounds of appeal of the revenue are dismissed.

Cross Objection No. 82/Ahd/2019

5. Cross Objection filed by the assessee is not pressed, so, the same is dismissed as not pressed.

6. In the result, the appeal filed by revenue and cross objection filed by the assessee both are dismissed.

Order pronounced in the open court on 20-02-2020

**Sd/-**  
**(MADHUMITA ROY)**  
**JUDICIAL MEMBER**  
**Ahmedabad : Dated 20/02/2020**

**Sd/-**  
**(AMARJIT SINGH)**  
**ACCOUNTANT MEMBER**

**आदेश क०० तलम अ० षत / Copy of Order Forwarded to:-**

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार  
आयकर अपील अ० अधिकरण,  
अहमदाबाद