



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

**BEFORE SHRI SAKTIJIT DEY, JUDICIAL MEMBER AND**  
**SHRI G. MANJUNATHA, ACCOUNTANT MEMBER**

ITA no.7157/Mum./2018  
(Assessment Year : 2013-14)

Aegis Logistics Ltd.  
1202, Tower-B, Peninsula Business Park  
G.K. Marg, Lower Parel (West)  
Mumbai 400 013 PAN-AAACA3302N

..... Appellant

v/s

Dy. Commissioner of Income Tax  
Circle-1(1)(1), Mumbai

..... Respondent

Assessee by : Shri Ketan Ved a/w  
Ms. Urvi Mehta  
Revenue by : Shri Michael Jerald

Date of Hearing – 12.02.2020

Date of Order – 13.03.2020

**ORDER**

**PER SAKTIJIT DEY. J.M.**

The captioned appeal has been filed by the assessee challenging the order dated 31<sup>st</sup> July 2018, passed by the learned Commissioner of Income Tax (Appeals)-2, Mumbai, for the assessment year 2013-14.

2. The only issue raised in the present appeal relates to the disallowance of ₹ 70,45,995, made under section 14A r/w rule 8D.

3. Brief facts are, the assessee, a resident company, filed its return of income for the impugned assessment year on 29<sup>th</sup> November 2013, declaring income of ₹ 50,02,46,740. During the assessment proceedings, the Assessing Officer noticing that the assessee in the year under consideration has earned certain income which has been claimed as exempt, called upon the assessee to explain as to why disallowance under section 14A of the Act should not be made by applying rule 8D. Though, the assessee submitted its explanation objecting to the proposed disallowance, however, rejecting the submissions of the assessee, the Assessing Officer computed disallowance under section 14A r/w rule 8D, for an amount of ₹ 76,19,090, comprising of interest expenditure under rule 8D(2)(ii) for ₹ 58,78,773, and administrative expenditure under rule-8D(2)(iii) for an amount of ₹ 17,40,317. Since, the assessee itself had made a disallowance of ₹ 5,73,095, the Assessing Officer made a net disallowance of ₹ 70,45,995. Though, the assessee contested the aforesaid disallowance before learned Commissioner (Appeals), however, it was unsuccessful.

4. The learned Authorised Representative submitted, no disallowance out of interest expenditure can be made as the assessee had sufficient interest free fund available with it. To substantiate such claim, learned Authorised Representative furnished before us a

statement showing availability of surplus fund. Further, he submitted, the disallowance of administrative expenditure under rule 8D(2)(iii) has to be computed by taking into consideration only those investments which are capable of yielding exempt income during the year under consideration. Further, he submitted, while deciding identical issue in assessee's own case for the assessment year 2011-12, the Tribunal has directed the Assessing Officer to delete the disallowance of interest expenditure and for disallowance of administrative expenditure to consider only those investments which have yielded exempt income during the year.

5. The learned Departmental Representative relied upon the observations of the Assessing Officer and learned Commissioner (Appeals).

6. We have considered rival submissions and perused the material on record. As far as the basic facts are concerned, there is no dispute that during the year under consideration the assessee has earned exempt income by way of dividend amounting to ₹ 7,49,09,613, and on its own assessee has disallowed an amount of ₹ 5,73,095, under section 14A r/w rule 8D. However, the Assessing Officer not being satisfied with the disallowance computed by the assessee has made disallowance at a much higher figure. From the material placed before us, it is noticed that as on 31<sup>st</sup> March 2013, the assessee had surplus

interest free fund of ₹ 32.30 crore by way of share capital and reserve and surplus. Whereas, the current and non-current investment held by the assessee were to the tune of ₹ 12.21 crore. Thus, from the aforesaid facts, it becomes clear that the assessee had sufficient interest free fund available with it to take care of the investments. Therefore, no disallowance of interest expenditure can be made under rule 8D(2)(ii). As regards disallowance of administrative expenditure under rule 8D(2)(iii), as held by the Special Bench of the Tribunal, Delhi Bench, in ACIT v/s Vireet Investment Pvt. Ltd., [2017] 82 taxmann.com 415 (SB) (Del.) only those investments which have yielded exempt income during the year under consideration can be included in the average value of investment for computing disallowance. The Assessing Officer is directed to follow the ratio laid down in the aforesaid decision and compute disallowance under section 14A accordingly. Grounds raised by the assessee are partly allowed.

7. In the result, appeal stands partly allowed.

Order pronounced in the open Court on 13.03.2020

**Sd/-**  
**G. MANJUNATHA**  
**ACCOUNTANT MEMBER**

**Sd/-**  
**SAKTIJIT DEY**  
**JUDICIAL MEMBER**

**MUMBAI, DATED: 13.03.2020**

Copy of the order forwarded to:

- (1) *The Assessee;*
- (2) *The Revenue;*
- (3) *The CIT(A);*
- (4) *The CIT, Mumbai City concerned;*
- (5) *The DR, ITAT, Mumbai;*
- (6) *Guard file.*

*Pradeep J. Chowdhury*  
*Sr. Private Secretary*

True Copy  
By Order

Assistant Registrar  
ITAT, Mumbai