

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

**BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND  
SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER**

**ITA NO. 2632/MUM/2019** : **A.Y : 2013-14**

M/s. Galiakotwala Engineering  
Company Pvt. Ltd.,  
66, Maker Chamber-III,  
Jamnalal Bajaj Marg,  
Nariman Point, Mumbai 400 021.  
**PAN : AAACG5701D** (Appellant)

Vs. Asstt. Commissioner of Income  
Tax, Circle-3(1)(2),  
Mumbai. (Respondent)

**Appellant by** : **None**  
**Respondent by** : **Shri T.S. Khalsa**  
**Date of Hearing** : **01/02/2021**  
**Date of Pronouncement** : **01/02/2021**

**ORDER**

**PER MAHAVIR SINGH, VP :**

This appeal by the assessee is arising out of the order of CIT(A)-9, Mumbai in Appeal no. CIT(A)-9/Cir.3/Tr.126/2016-17 dated 20.03.2019. The assessment was framed by the Asst. Commissioner of Income Tax, Circle-3(1)(2), Mumbai under Section 143(3) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') for Assessment Year 2013-14 vide order dated 29.02.2016.

2. Brief facts are that the Assessing Officer during the course of assessment proceedings noticed that assessee has invested in equity shares and mutual funds a sum of Rs.2,07,99,352/- and earned exempt income of Rs.6,18,304/-.

The Assessing Officer computed the disallowance by invoking provisions of Section 14A of the Act r.w.r 8D of the Income Tax Rules. He computed the disallowance under Rule 8D(2)(ii) and 8D(2)(iii) of the Income Tax Rules (hereinafter referred to as 'the Rules') totalling to Rs.3,02,169/-. Aggrieved, assessee preferred appeal before the CIT(A), who restricted the disallowance under Rule 8D(2)(iii) of the Rules at Rs.1,11,002/-. Aggrieved, assessee came in appeal before the Tribunal.

3. We have heard the rival contentions and gone through the facts and circumstances of the case. At the outset, it is noted from the assessment order as well as order of CIT(A) that there is no satisfaction recorded by the Assessing Officer *qua* the claim of assessee that there is no expenditure incurred on account of earning of exempt income. Even the Assessing Officer has not gone through the accounts of the assessee and could not point out which expenses are relatable to exempt income. Hence, he has not recorded any satisfaction before rejecting the accounts of the assessee. We are of the view that recording of satisfaction is a primary condition for invoking the provisions of Section 14A of the Act r.w.r 8D of the Rules. Hence, we delete the disallowance confirmed by CIT(A) amounting to Rs.1,11,002/-.

4. In the result, appeal of the assessee is allowed.

Order pronounced in the open court on 1<sup>st</sup> February, 2021.

Sd/-  
(MANOJ KUMAR AGGARWAL)  
ACCOUNTANT MEMBER

Sd/-  
(MAHAVIR SINGH)  
VICE PRESIDENT

Mumbai, Date : 1<sup>st</sup> February, 2021

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Copy to :

- 1) The Appellant
- 2) The Respondent
- 3) The CIT(A) concerned
- 4) The CIT concerned
- 5) The D.R, "G" Bench, Mumbai
- 6) Guard file

By Order

Dy./Asstt. Registrar  
I.T.A.T, Mumbai