

**IN THE INCOME TAX APPELLATE TRIBUNAL (VIRTUAL COURT)
"C" BENCH, MUMBAI**

**BEFORE SHRI C.N. PRASAD, HON'BLE JUDICIAL MEMBER AND
SHRI N.K. PRADHAN, HON'BLE ACCOUNTANT MEMBER**

ITA.NO. 5218/MUM/2019 (A.Y: 20131-14)

ACIT – Circle -7(3)(2) Room No. 128A, 1 st Floor Aayakar Bhavan, M.K. Road Mumbai – 400 020	v.	M/s. Prime Securities Ltd., 1109/1110, 11 th Floor Maker Chambers-5 Nariman Point, Mumbai - 400021 PAN: AAACP4089M
(Appellant)		(Respondent)

Assessee by	:	Shri J.P. Bairagra
Department by	:	Ms. Shreekala Pardeshi
Date of Hearing	:	10.02.2021
Date of Pronouncement	:	10.02.2021

ORDER

PER C.N. PRASAD (JM)

1. This appeal is filed by the revenue against order of the Ld.Commissioner of Income-tax (Appeals)-13, Mumbai [hereinafter for short "Ld. CIT(A)] dated 17.05.2019 for the A.Y. 2013-14 in restricting the disallowance u/s. 14A of the Act. to the extent of dividend income of ₹.8,03,277/- earned by the assessee during the year.

2. Briefly stated the facts are, the Assessing Officer while completing the assessment computed the disallowance of ₹.1,90,16,365/- u/s. 14A r.w. Rule 8D of I.T. Rules. Since assessee made suo-moto disallowance of ₹.2,00,819/-, Assessing Officer restricted the disallowance to ₹.1,88,15,516/-. On appeal Ld.CIT(A) restricted the disallowance to the dividend income earned by the assessee during the year. Against this order revenue is in appeal before us in restricting the disallowance u/s.14A to the extent of dividend income earned by the assessee.

3. Ld. Counsel for the assessee submits that during the Assessment Year under consideration assessee earned dividend income of ₹.8,03,277/-. Learned Counsel for the assessee submitted that the disallowance u/s. 14A r.w. Rule 8D cannot exceed dividend income and reiterated the submissions made before the Ld.CIT(A). Ld. Counsel for the assessee relied on the decision of the Hon'ble Supreme Court in the case of PCIT *v.* State Bank of Patiala (259 Taxman.com 314) wherein it was held that disallowance u/s. 14A of the Act cannot exceed exempt income. Ld. Counsel for the assessee further relied on the decision of the Hon'ble Bombay High Court in the case of CIT *v.* HDFC Bank Ltd [366 ITR 505].

4. Ld.DR vehemently supported the orders of the Assessing Officer.
5. We have heard the rival submissions, perused the orders of the authorities below. On a perusal of the order of the Ld.CIT(A), we find that the Ld.CIT(A) considered this aspect of the matter elaborately with reference to the submissions of the assessee and the averments in the Assessment Order and following the decision of Hon'ble Supreme Court in the case of PCIT v. State Bank of Patiala (supra) restricted the disallowance u/s.14A to the extent of dividend income earned by the assessee. While holding so, the Ld.CIT(A) observed as under: -

"3.2 Decision:-

The AO made disallowance of Rs.1,90,16,365/- under Rule 8D r.w.s.14A, which comprised of Rs. 1,54,17,929/- under Rule 8D(2)(ii) and Rs.35,98,436/- under Rule 8D(2)(iii).

The assessee submitted that –

(i) It has suo mo to disallowed a sum of Rs.2,77,59,462/- out of interest expenses paid to Religare Finvest Ltd., which was related to investment,

(ii) It has sufficient own funds which were more than the total investment, therefore in view of Hon'ble Bombay High Court's decision in the case of HDFC Bank Ltd. (supra), no disallowance should be made out of interest Payment.

I have considered the facts of the case. The suo moto disallowance made by the assessee is more than the disallowance made by AO and considering the facts of the case I am of the opinion that no further disallowance is called for under Rule 8D(2)(ii).

Regarding disallowance under Rule 8D(2)(iii), following the Hon'ble Supreme Court judgement in the case of PC IT Vs. State Bank of Patiala (supra), the assessee requested that the disallowance cannot be more than the exempt income.

The total dividend income earned by the assessee during the year was Rs.8,03,277/-. Respectfully following the decision of Hon'ble Supreme Court mentioned above, the AO is directed to restrict the disallowance under Rule 8D(2)(iii) to Rs.8,03,277/-.

- 6.** On a careful perusal of the order of the Ld.CIT(A) and the reasons given therein and in view of the decision of Hon'ble Supreme Court in the case of PCIT v. State Bank of Patiala (supra), we do not find any infirmity in the order passed by the Ld.CIT(A) in restricting the disallowance u/s.14A to the extent of dividend income earned by the assessee during the year under appeal.
- 7.** In the result, appeal of the revenue is dismissed.

Order pronounced in the virtual court on 10.02.2021.

Sd/-
(N.K. PRADHAN)
ACCOUNTANT MEMBER

Mumbai / Dated 10/02/2021
Giridhar, Sr.PS

Sd/-
(C.N. PRASAD)
JUDICIAL MEMBER

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent.
3. The CIT(A), Mumbai.
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER
(Asstt. Registrar)
ITAT, Mum