

आयकर अपीलीय अधिकरण "ए" न्यायपीठ पुणे में ।  
IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH, PUNE

BEFORE SHRI R.S. SYAL, VICE PRESIDENT  
AND  
SHRI S.S. VISWANETHRA RAVI, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.1499/PUN/2017

निर्धारण वर्ष / Assessment Year : 2008-09

Ducan Engineering Ltd.,  
(Formerly know as Schrader Ducan Ltd.),  
F-33, Ranjangaon MIDC Karegaon,  
Tal.-Shirur, Distt.-Pune-412209

PAN : AAACS0769H

.....अपीलार्थी / Appellant

**बनाम / V/s.**

Assistant Commissioner of Income Tax,  
Circle – 10(3), Mumbai

.....प्रत्यर्थी / Respondent

Assessee by : Shri Suhas P. Bora  
Revenue by : Shri A.M. Mahadevan Krishnan

सुनवाई की तारीख / Date of Hearing : 16-09-2021

घोषणा की तारीख / Date of Pronouncement : 17-09-2021

**आदेश / ORDER**

**PER S.S. VISWANETHRA RAVI, JM :**

This appeal by the assessee against the order dated 27-02-2017 passed by the Commissioner of Income Tax (Appeals)-4, Pune ['CIT(A)'] for assessment year 2008-09.

2. The sole ground raised by the assessee challenging the action of CIT(A) in confirming the disallowance to an extent of Rs.17,23,535/- u/s. 14A r.w. Rule 8D in the facts and circumstances of the case.

3. The brief facts of the case are that the assessee is a company engaged in the business of manufacturing and sale of automobile tyre, tube, valves and accessories. The assessee declared total income at Rs.3,01,94,351/- and under scrutiny the AO determined the same at Rs.3,58,13,909/- vide its order dated 22-12-2010 passed u/s. 143(3) of the Act. The assessee challenged the order of AO before the CIT(A) and the CIT(A) confirmed the disallowance u/s. 14A r.w. Rule 8D made by the AO to the extent of mentioned above. Aggrieved, by the order of CIT(A), now, the assessee is before us.

4. Heard both parties perused the material available on record. The assessee earned dividend income of Rs.28,21,855/-. The AO asked the assessee to explain as to why the disallowance u/s. 14A r.w. Rule 8D should not be made considering the claim of exempt income. According to AO, the assessee has not demonstrated the interest bearing funds are used only for the purpose of business without diverting the same towards making of investments and funds of business are a mix of own as well as borrowed funds, incurring of interest income in relation to earning of exempt income cannot be ruled out. Accordingly, he proceeded to apply method contemplated under Rule 8D(2)(ii) and Rule 8D(2)(iii) of the Rules. Before CIT(A), vide Para No. 5.3.5 of impugned order, we note that the assessee stated that the disallowance under Rule 8D is to be made taking

into account only proportionate interest expenses to the extent of average value of investment. The CIT(A) observed that the assessee itself worked out disallowance on its own and gave partial relief to the extent of Rs.5,08,950/- and confirmed the addition to an extent of Rs.17,23,535/-.

5. The ld. AR, Shri Suhas P. Bora before us submits that the assessee has capital reserves more than the investments and referred to Page No. 3 of the paper book and argued when there are reserve funds belonging to assessee are available the disallowance made under Rule 8D(2)(ii) is not warranted and placed on record the decision of Hon'ble Supreme Court in the case of South Indian Bank Ltd. Vs. CIT in Civil Appeal No. 9606 of 2011. On perusal of the Balance sheet made as on 31-03-2008 at Page No. 3 of the paper book-I, we note that Capital, Reserves and Surplus funds to an extent of Rs.30,73,15,340/- are available with the assessee and the investments made at Rs.9,29,39,455/- which is also reflected in the Balance sheet on the same page. The Hon'ble Supreme Court in the case of South Indian Bank Ltd. (supra) held when there are capital reserve funds are more than investments made, a presumption is to be in favour of the assessee that the investments made out of own funds. In the present case as discussed above, the capital, reserve and surplus funds are exceeding the investments made and in our opinion, the interest expenditure as sustained by the CIT(A) as rightly pointed by the ld. AR is not justified. Therefore, the disallowance made under Rule 8D(2)(ii) is deleted. The ld. AR fairly conceded that the disallowance made under Rule 8D(2)(ii) to an extent of Rs.7,17,572/- is to be sustained. Thus, taking into consideration the submissions of ld. AR and the facts and circumstances of

the case, we deem it proper to confirm the addition made under Rule 8D(2)(iii) to an extent of Rs.7,17,572/-. Thus, the sole ground raised by the assessee is partly allowed.

6. In the result, the appeal of assessee is partly allowed.

Order pronounced in the open court on 17<sup>th</sup> September, 2021.

Sd/-  
(R.S. Syal)  
VICE PRESIDENT

Sd/-  
(S.S. Viswanethra Ravi)  
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 17<sup>th</sup> September, 2021.  
RK

**आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A)-4, Pune
4. The Pr. CIT-3, Pune
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "ए" बेंच,  
पुणे / DR, ITAT, "A" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

//सत्यापित प्रति// True Copy//

आदेशानुसार / BY ORDER,

निजी सचिव / Private Secretary,  
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune