



**IN THE INCOME TAX APPELLATE TRIBUNAL,
'D' CHENNAI BENCH, CHENNAI**

**BEFORE S/SHRI CHANDRA MOHAN GARG, JUDICIAL MEMBER
AND ARUN KHODPIA, ACCOUNTANT MEMBER**

ITA No.3156/Chny/2017

Assessment Year : 2014-15

ACIT, Circle-1, Trichy	Vs.	M/s. Dalmia Bharat Ltd., Dalmiapuram, Tamilnadu - 621 651,
PAN/GIR No.AAJCS 7366 K		
(Appellant)	..	(Respondent)

Assessee by : N o n e
Revenue by : Dr S.Palanikumar, CIT (DR)

Date of Hearing : 24 /2/ 2022
Date of Pronouncement : 31/3/2022

ORDER

Per C.M.Garg, JM

This is an appeal filed by the revenue against the order of the CIT(A)-29, New Delhi dated 29.6.2017 for the assessment year 2014-15.

2. The appeal filed by the revenue is delayed by 49 days. The revenue has filed condonation petition, stating the reasons therein, for filing the appeal before the Tribunal by 49 days. After considering the rival submissions, we are satisfied that the revenue had reasonable cause for not filing the appeal within the stipulated time. Ld A.R. did not have any objection for condoning the delay. We, therefore, condone the delay of 49

days in filing the appeal before the Tribunal and admit the appeal for hearing.

3. The sole grievance of the revenue in this appeal is that the Id CIT(A) erred in directing the AO to compute the disallowance under Rule 8D(2)(iii) after excluding investment in group/subsidiary companies which were strategic in nature and investment which had not yielded any exempt income after verification of details of investment as its nature in the balance sheet of the assessee company.

4. When the matter was called for hearing, no one appeared on behalf of the assessee nor any application for adjournment has been filed despite the fact that the notice of hearing was displayed in the notice board as well as in ITAT website. On perusal of appeal records, we are of the considered view that this appeal of the revenue can be decided exparte-qua-assessee after hearing the arguments advanced by Id Sr. DR. Therefore, we proceed to hear the appeal.

5. Ld CIT DR submitted that in the case of DCIT vs The Saraswat Co-operative Bank Limited in ITA No.8622/Mum/2010 and ors vide order dated 31.10.2016, the Mumbai Tribunal 'E' Bench has held that the assessee in its subsidiaries which are capable of yielding exempt income i.e. by way of dividend etc, which are exempt from tax shall be included while computing disallowance u/s.14A of the Act. Ld CIT DR pointed out that as the statute

does not grant any exemption to the strategic investments which are capable of yielding exempt income to be excluded while computing disallowance u/s.14A of the Act, therefore, the Id CIT(A) was not correct in granting relief to the assessee on the strategic investment and directed the AO to exclude strategic investment while computing disallowance u/s.14A r.w. Rule 8D of I.T.Rules, 1962. Ld CIT DR submitted that ITAT Mumbai has relied on the decision of Hon'ble Karnataka High Court in the case of United Breweries Ltd vs DCIT in ITA No.419/2009 dt.31.5.2016 and also the decision of ITAT Mumbai in the case of ACIT vs Uma Polymers Ltd in ITA No.5366/Mum/2012 and C.O. No.234/Mum/2013 dt.30.9.2015. Therefore, the Id CIT (A) submitted that the impugned first appellate order may kindly be set aside and that of the AO be restored.

6. From the grounds placed by the assessee in Form No.35, which has been reproduced by the assessee in para 3 of the CIT(A) order, we observe that the assessee has challenged the disallowance made by the AO u/s.14A r.w. 8D of I.T.Rules on various grounds, including the impugned ground that the AO was not justified and grossly erred in computing disallowance u/s.14A r.w Rule 8D(2)(iii) by not excluding strategic investment, the income from which, any group company and subsidiary company without considering the fact that those investments are for the purpose of acquiring controlling stake for business expediency and not for the purpose of earning exempt income. Ld CIT(A) has also reproduced the written arguments of

the assessee in para 7 of the impugned order, wherein, the assessee after submitting the factual details of the issue has relied on various judgments including the judgment of Hon'ble Delhi High Court in the case of '[Maxopp Investment Ltd. & Others v. CIT](#)' 247 ITR 162 and another judgment in the case of Priya Exhibitors Pvt Ltd. Vs ACIT (2012) 32 CCH 430 (Del, wherein, it was held that when the AO records a finding that he is not satisfied with the assessee's claim, Rule 8D comes into play. Further, such satisfaction must be drawn after an objective analysis and for cogent reasons that the amount of such expenditure as claimed by the assessee is not correct. On the strength of decision of Hon'ble Bombay High Court in the case of CIT vs. Reliance Utilities and Powers Limited (2009) 313 ITR 340 (Bom), it was also contended that if there are funds available both interest free and overdraft and/or loans taken, then a presumption would arise that investment would be out of the interest free fund generated or available with the company, if the interest free funds are sufficient to meet the investment.

7. In its written submission before the Id CIT(A), it was also contended on behalf of the assessee that the investments made by the assessee in its subsidiaries is to be reckoned in computing disallowance u/s.14A r.w. Rule 8D of the I.T.Rules. The assessee has also relied on the various judgments to support this proposition including the decision of Hon'ble Delhi High Court in the case of CIT vs.Holcim India Pvt Ltd, 272 CTR 282 (Del),

wherein, it was held that investments made for the purposes of the business in subsidiaries etc, there cannot be any disallowance u/s.14A of the Act irrespective of factum of earning dividend income. Therefore, for working out or computing the disallowance of expenditure and interest as prescribed under Rule 8D investment in subsidiary is not to be included.

The relevant paragraph of submissions reads as follows:

"4.0 While computing disallowance u/s 14A read with Rule 8D, Investments made in subsidiary & group companies and debt based mutual funds, and other investments from which no exempt income has accrued to the assessee has to be excluded from the computation average investments

4.1 Without prejudice to the above, the A.O., while computing the disallowance u/s 14A, computed the average value of investments, by considering the entire investments including investments in subsidiary companies and group companies being strategic in nature and investments, the income from which is not exempt from tax.

4.2 It has been held in catena of decision that strategic investment needs to be excluded while computing disallowance u/s 14A as per Rule 8D. In this context, reliance can be placed on the decision of Hon'ble Jurisdictional Tribunal in the case of Interglobe Enterprise Limited -vs.-DCIT (2014) 40 CCH 22 (Del) wherein it has been held that when the assessee had utilized interest free funds for making fresh investments in its subsidiaries, which was not for the purpose of earning exempt income but for strategic purposes only, no disallowance of interest was required to be made under Rule 8D(i) & 8D(ii) and strategic investment has to be excluded for purpose of arriving at disallowance under Rule 8D(iii).

4.3 Similarly, reliance can also be placed on the decision of the Hon'ble Chennai Tribunal in the case of EIH Associated Hotels Ltd. - vs.- DOT [ITA No. 1503/Mds/2012 dated 17-07-2013]. In the instant case, assessee earned dividend income of Rs. 4.6 lakhs and had total investments of Rs. 64.18 Crs., out of which an amount of Rs. 63.31 Crs. were invested in wholly owned subsidiaries. Assessee contended

that while computing disallowance u/s 14A read with Rule 8D, investments made in subsidiary companies should be excluded, since, these investments were made for business expediency and not for the purpose of earning dividend. Hon'ble Tribunal assented to the views of the assessee and held that investments made by the assessee in the subsidiary company were not on account of earning dividend income. Such investments had been made by the assessee to promote subsidiary company into the hotel industry and were on account of business expediency. Therefore, the investment made by the assessee in its' subsidiary is not to be reckoned for computing disallowance u/s 14A r. w. Rule 8D of the Act.

4.4 Reliance in this regard can also be placed on the decision of the Hon'ble Mumbai Tribunal in the case of Vakrangee Limited -vs.- ACIT (ITA No. 6988/Mum/2014 dated 10-08-2016) where the entire investments in shares/ securities made by the assessee amounting to Rs. 52,15,95,000/-were made in subsidiary companies as strategic investments to have control over those companies and not for investment purposes or with the intention of earning of dividend/tax exempt income. Hence, the Hon'ble Tribunal held that strategic investments made by the assessee in group companies are to be excluded while computing the disallowance u/s 14A r.w. Rule8D.

4.5 In this regard, reliance can also be placed on the decision of Hon'ble Kolkata Tribunal in the case of Rikhab Chand Jain -vs.- ACIT (I.T.A No.907/Kol/2013 dated 08-07-2016). In the instant case the assessee was a Managing Director of M/s. TT Ltd and had controlling interest in the company. It held shares amounting to Rs. 15.89 Crs. and earned managerial remuneration amounting to Rs.35.20 Lacs, Royalty & Advertisement income amounting to Rs.1.49 Crores and Dividend income of Rs. 51.68 Lakhs (which was claimed exempt u/s 10(34) of the Act. The assessee had made investments in TT Ltd for strategic purpose and business expediency, and the dividend income earned was incidental to the main purpose of business expediency. The A.O. however, while computing disallowance u/s 14A read with Rule 8D(iii) had included the investment in the shares of TT Ltd. However, the Tribunal deviating from the view of the A.O. held that since the investments were held to be business expediency investments, there is no case for making any disallowance u/s 14A by adopting Rule 8D(2)(iii) of the Income Tax Rules, 1962.

4.6 The appellant also relies on the recent decision of Hon'ble Delhi Tribunal in the case of Triune Projects Pvt. Limited -vs.- DOT (ITA No. 3917/Del/2011 dated 10-02-2016). In this case, the

assessee had earned dividend income of Rs. 1,35,35,450/- and made adhoc disallowance of Rs. 13.35 lacs (10% of dividend income). The AO applied Rule 8D and computed disallowance to the tune of Rs. 37.63 lacs resulting into net disallowance of Rs. 24.20 lacs. When the matter reached to the Hon'ble jurisdictional Delhi Tribunal, the Court (Para 7 (b)) held as under:-

"We are also of the view that investment made by the assessee in subsidiary companies is also not covered for this purpose of working out disallowance u/s 14A because they are termed as strategic investments. Our view is further fortified by the decision of Hon'ble Delhi High Court in the case of CIT-vs.- Holcim India Pvt. Limited 272 CTR 282 (Delhi) wherein it is held that investments made for the purposes of the business in subsidiaries etc. there cannot be any disallowance u/s 14A of the Act irrespective of factum of earning dividend income. Therefore, for working out disallowance of expenditure and interest as prescribed under Rule 8D investment in subsidiary is not to be included"

4.7 Similar view has been taken in the following cases:

- Provogue (India) Ltd. -vs.- DOT [ITA No. 2155/Mum/2013] dated 21-01- . 2015]*
- Kotak Mahindra Capital Company Ltd. -vs. - DOT [ITA No. 5748/Mum/2012 & 248/Mum/2013 dated 21-01-2015]*
- DOT -vs. -Selvel Advertising Pvt. Ltd. (2015) 37ITR 611 (Kol. Trib.)*
- Integrated Coal Mining Ltd -vs.- DOT (I.T.A No. 1146/Kol/2012 dated 30-11-2015).*

4.8 Further, it is also submitted that the appellant has earned dividend income amounting to Rs. 14,81,72,982/- details of which has been attached in Annexure -1. Out of the same, Rs. 11.83 Crs.(representing 80.00% of dividend income) had been earned from its subsidiary/group companies, i.e., Dalmia Cement (Bharat) Limited. The investment in these companies was made in the earlier years. Hence, question of disallowance u/s 14A does not arise.

4.9 Without prejudice to the above, in computing disallowance u/s 14A read with Rule 8D(2)(ii) &(iii), only the investment in respect of which income does not or shall not form part of Total Income as appearing in the Balance Sheet as on the first day and on the last day of the previous year needs to be considered. In other words, the investment in respect of which income is chargeable to tax should be excluded while computing disallowance u/s 14A read with Rule 8D.

However the A.O. failed to exclude such investments, income from which is not exempt from tax but is chargeable to tax.

4.9.1 In this connection, reliance can be placed on the decision of Hon'ble Mumbai Tribunal in the case of Manugraph India Ltd. -vs.- DCIT (ITA No. 4761/Mum/2013) wherein it has been held that provisions of Section 14A read with Rule 8D does not apply to growth schemes/growth mutual funds which does not yield any exempt income. Similar view taken in the case of Everest Kanto Cyliners Ltd. (ITA No. 7073/Mum/2012) and Pinebridge Investment Asset Management Company India (P) Ltd vs ACIT (ITA No.1568/Mum/2014 dated 30.9.2016)."

8. From the first appellate order, we observe that the Ld CIT(A) has allowed relief to the assessee with the following observations and findings:

"9. It was further contended that while computing the disallowance u/s 14A, the average value of investments made in the subsidiary companies and group companies needs to be excluded as strategic in nature, which was made not for the purpose of earning exempt income but for strategic purposes. The appellant earned dividend income amounting to Rs.14.81 crores. Out of the same, Rs. 11.83 crores (representing 80% of dividend income) has been earned from its subsidiary company i.e. Dalmia Cement (Bharat) Limited. The investment in this company was made in the earlier years. Hence, it was contended that disallowance u/s 14A of the Act does not arise. The appellant relied on various decisions in this regard, as reproduced in its written submission, earlier.

9.1 The appellant submitted that while computing the disallowance u/s 14A r.w. Rule 8D(2)(iii), only the investment in respect of which the income does not or shall not form part of Total Income as appearing in the Balance Sheet as on the first day and on the last day of the previous year needs to be considered. Thus, the investment in respect of which income is chargeable to tax and from which no exempt income is earned should be excluded while computing disallowance u/s 14A r.w. Rule 8D. The appellant relied upon various judgements, as already reproduced in its submission, earlier, by the appellant in this regard.

10. I have considered the facts, submissions of the appellant and the assessment order framed in light of the materials available before the AO during the assessment proceedings.

10.1 It is seen that the appellant has made huge investment in group companies as well as in subsidiary company for strategic business purpose and commercial expediency and not for the purposes of earning tax free income in the form of dividend. Through holding shares, the appellant was exercising management and control over the affairs of these companies who had strategic business objectives. However, the dividends have been earned on such strategic investments.

10.2 Hon'ble jurisdictional ITAT, Delhi in the case of Triune Projects Pvt. Limited Vs. DCIT (ITA No. 3917/Del/2011), dealing with similar facts has held as under:-

"We are also of the view that investment made by the assessee in subsidiary companies is also not covered for this purpose of working out disallowance u/s 14A because they are termed as strategic investments. Our view is further fortified by the decision of Hon'ble Delhi High Court in the case of CIT-vs.- Holcim India Pvt. Limited 272 CTR 282 (Delhi) wherein it is held that investments made for the purposes of the business in subsidiaries etc. there cannot be any disallowance u/s 14A of the Act irrespective of factum of earning dividend income. Therefore, for working out disallowance of expenditure and interest as prescribed under Rule 8D investment in subsidiary is not to be included"

10.3 Further, Hon'ble ITAT, Delhi, in the case of Interglobe Enterprise Limited Vs. DCIT 40 CCH 22 (Del) has held that when the assessee made investments in its subsidiaries, which was not for the purpose of earning exempt income but for strategic purposes only, strategic investments has to be excluded for purpose of arriving at disallowance under Rule 8D. Similarly, Hon'ble Mumbai Tribunal in Vakrangee Limited Vs. ACIT [ITA No. 6988/Mum/2014] held that investment made in group company were strategic investments made to have control over those companies and not for investment purposes or with the intention of. earning of dividend/tax exempt income. Thus, strategic investments made by assessee in group companies are to be excluded while computing disallowance u/s 14A read with Rule 8D.

10.4 Hon'ble Delhi High Court in the case of CIT Vs. Holcim India Pvt Limited CCH81 (Delhi) held that if investments made for the purposes of the business of the company in subsidiaries etc. there cannot be any disallowance u/s 14A of the Act. Similar view taken in the subsequent decision by Hon'ble Delhi High Court in Cheminvest Limited Vs. CIT 378 ITR 33 (Delhi).

10.5 It is seen that a substantial amount of investment has been made by the appellant in the subsidiary/group companies for strategic purpose of having management and control over the affairs of the company and to achieve business objectives and not for the motive to earn dividend.

10.6 Further, section 14A read with Rule 8D(2)(iii) provides for inclusion of average value of investments, income from which does not or shall not form part of total income as appearing in the balance sheet of the assessee, on the first day and last day of the previous year. As submitted by the appellant, units of debt based schemes of Mutual fund with Growth Option and other investments from which no tax free income was received during the year, are not to be considered while computing the average value of investments. Hon'ble Mumbai Tribunal in the case of Manugraph India Ltd. Vs. DCIT [ITA No. 4761/Mum/2013] held that provisions of Sec. 14A read with Rule 8D does not apply to growth schemes/growth mutual funds which does not yield any exempt income. Similar view taken in the case of Pinebridge Investment Asset Management Company India (P) Ltd Vs. ACIT [ITA No. 1568/Mum/2014].

10.7 Looking to the facts and circumstances of this case and respectfully, following the ratio laid down in various decisions by different jurisdictions including above judicial pronouncements by the jurisdictional ITAT and High Court and in the light of present facts alongwith discussions in foregoing paragraphs, the AO is directed to re-compute the disallowance under Rule 8D(2)(iii) after excluding investment in group/subsidiary companies which are strategic in nature and investment which have not yielded any exempt income, after verification of the details of investments and its nature in the balance sheet of the appellant company. The working of disallowance under Rule 8D(2)(iii) has been stated to be provided before AO, during assessment proceedings and also submitted during appellate proceedings, where strategic investment and non exempt income during investment has been shown/excluded and disallowance is worked out accordingly. The AO is directed to examine the veracity

of said working and give effect in accordance with the above directions, expeditiously, say in a month of receipt of this order.

10.8 In light of discussion in foregoing paragraphs, Ground No.2 to 7 are partly allowed for statistical purposes and disposed off in the manner as indicated hereinabove.”

9. From the grounds raised by the assessee, it is clearly discernible that the department challenges first appellate order on the strength of order of ITAT Mumbai in the case of The Saraswat Co-operative Bank Limited (supra), wherein, the Co-ordinate Bench after referring to the judgment of Hon'ble Karnataka High Court in the case of United Breweries Ltd (supra) and order of ITAT Mumbai in the case of Uma Polymers Ltd(supra) has held that the strategic investment made by the assessee in its subsidiaries and other securities which are capable of yielding exempt income by way of dividend income, which are exempt from tax, are to be included while computing disallowance u/s.14A r.w Rule 8D.

10. On careful consideration of the above rival submissions, written submissions before the Id CIT(A) and findings arrived at by the Id CIT(A), first of all, we observe that the sale controversy is revolving around the question as to whether the amount of strategic investments made by the assessee in its subsidiaries is required to be included while computing disallowance u/s.14A r.w Rule 8D.

11. The revenue has relied on the orders of ITAT Mumbai in the case of The Saraswat Co-operative bank Limited (supra), wherein, the judgment of

Hon'ble Karnataka High Court in the case of United Breweries Limited (supra) and order of ITAT Mumbai 'F' Bench in the case of Uma Polymers (supra) has been relied by the Co-ordinate Bench while holding that the amount of strategic investment in the subsidiary has to be included for the purpose of calculating disallowance u/s.14A r.w Rule 8D of I.T.Rules. From the impugned first appellate order, we observe that the Id CIT(A) while granting relief to the assessee has relied on the decision of Hon'ble Delhi High Court in the case of Holcim India Pvt Ltd (supra) and Cheminvest Limited (supra) as well as orders of AITAT Delhi in the case of Triune Projects Ltd., (supra), Interglobe Enterprise Limited (supra) and Mumbai Tribunal in the case of Manugraph India Ltd (supra) to hold that the judicial pronouncements of ITAT and Hon'ble High Court and in the light of present facts and circumstances, the AO is directed to recomputed the disallowance under Rule 8D (2)(iii)of I.T.Rules after excluding investment in Group/subsidiary companies which are strategic in nature and investment which have not yielded any exempt income, after verification of the details of investments and its nature in the balance sheet of the assessee company.

12. Before we proceed to consider the applicability of case laws/ citations relied on by both the sides, we find it appropriate to reproduce Rule 8D(2) of the I.T.Rules, which reads as follows:

“(2) The expenditure in relation to income which does not form part of the total income shall be the aggregate of following amounts namely:

- (i) The amount of expenditure directly relating to income which does not form part of total income;
- (ii) In a case where the assessee has incurred expenditure by way of interest during the previous year which is not directly attributable to any particular income or receipt, an amount computed in accordance with the formula; and
- (iii) An amount to equal to one half percent of the average of the value of investment, income from which does not or shall not form part of the total income, as appearing in the balance sheet of the assessee, on the first day and last day of the previous year.

13. From a bare reading of sub-rule (2) of Rule 8D, it is clear that there are three limbs viz clause (i) pertains to disallowance of amount of expenditure directly related to the company, which does not form part of total income (ii) pertains to the disallowance of expenditure incurred by way of interest during the relevant previous year, which is not directly attributable to any particular income or receipt and (iii) pertains to the amount of disallowance equal to one half percent of the average of the value of investment, income from which does not or shall not form part of the total income, as appearing in the balance sheet. In our humble understanding, there is no dispute regarding applicability of clause (i) & (ii) of said sub-rule (2) of Rule 8D of I.T.Rule to the investment which yield exempt income of the assessee during the relevant previous year. However, regarding clause (iii), the Hon'ble Delhi High Court in the case of Holcim India Pvt Ltd (supra), in para 15, and in the case of Cheminvest Limited (supra) in para 19 held that when the assessee has strategic

investment in shares securing right to management or control over the subsidiary, then the revenue authorities had accepted the genuineness of expenditure incurred by the assessee in that case and that expenditure had been incurred to protect investment made. The Hon'ble Delhi High Court has answered the question of law in favour of the assessee and against the revenue.

14. On bare perusal of judgment of Hon'ble Karnataka High Court in the case of United Breweries Limited (supra), we clearly see that the Hon'ble High Court has not decided any question of law and held that in any case, the question of law as sought to be canvassed would not arise for consideration at this stage on the said aspects as sought to be canvassed. In our humble understanding and respectfully and careful vigilant reading of this order of Hon'ble Karnataka High Court, we observe that Their Lordships have not expressed any view over the disallowance under section 14A r.w. Rule 8D on strategic investment. However, from the orders of ITAT Mumbai in the case of The Saraswat Co-operative Bank Limited(supra), para 17, we observe that the Co-ordinate Bench by referring the decision in the case of United Breweries Limited (supra) has held that the strategic investment in subsidiary companies as well as in other securities, which are exempt income by way of dividend shall be included for the purpose of expenditure incurred in relation to earning of exempt income.

15. We find it appropriate to reproduce the relevant part of para 17 of the said Tribunal order in the case of Saraswat Co-operative Bank Limited (supra), which reads as follows:

“We are also of the considered view, that strategic investment made by the assessee in its subsidiary Saraswat Infotech Limited as well in the other securities which are capable of yielding exempt income i.e. by way of dividend etc. which are exempt from tax shall be included while computing disallowance u/s 14A of the Act as per the scheme of the Act as contained in provisions of Section 14A of the Act as the statute does not grant any exemption to the strategic investments which are capable of yielding exempt income to be excluded while computing disallowance u/s 14A of the Act and hence the investment made by the assessee in subsidiary company M/s Saraswat Infotech Limited and all other securities which are capable of yielding exempt income by way of dividend etc shall be included for the purposes of disallowance of expenditure incurred in relation to the earning of exempt income , as stipulated u/s 14A of the Act. Our decision is fortified by the recent decision of Hon’ble Karnataka High Court in the case of United Breweries Limited v. DCIT in ITA No. 419/2009 vide orders dated 31-05-2016 and also decision of the tribunal in the case of ACIT v. Uma Polymers Limited in ITA no 5366/Mum/2012 and CO No. 234/Mum/2013 vide orders dated 30-09-2015. We are of the considered view that the matter need to be restored back to the file of the AO for de-novo determination of the issue on merits in accordance with our directions in this order. Needless to say proper and adequate opportunity of heard shall be provided by the AO to the assessee in accordance with the principles of natural justice in accordance with law.”

16. As we have noted above, the expenditure incurred by the assessee of earning exempt income pertains to clause (i) of sub-rule (2) of Rule 8D of I.T.Rules, whereas in the present case from para 10.7 of the CIT(A) order, we observe that the Id CIT(A) has only directed the AO to exclude strategic investment made by the assessee in group/subsidiary companies while

computing the disallowance under clause (iii) of sub-rule (2) of Rule 8D of I.T.Rules. Therefore, the propositions canvassed and relied on by Id CIT DR in the case of The Saraswat Co-operative Bank Limited(supra) which explains the disallowance to be made under clause (i) of sub-rule (2) of Rule 8D of the Rules has no application to the facts of the present case., wherein, the revenue has challenged order of Id CIT(A), which directed the AO to recomputed disallowance under clause (iii) of sub-rule (2) of Rule 8D of I.T.Rules after excluding strategic investments in Group/subsidiary companies to control over the management of such company and to protect investment made under business strategy of assessee and investments which have not yielded any exempt income. Therefore, the facts and circumstances of the issue for adjudication of present case are quite distinct and dissimilar to the factual matrix and issue decided by the co-ordinate Bench in the case of Saraswat Co-operative Bank Limited (supra), thus, we respectfully hold that the benefit of said orders of ITAT Mumbai and judgment of Hon'ble Karnataka High Court in the case of United Breweries Limited (supra) is not available for the revenue in the present case. Therefore, in view of foregoing discussion, we are compelled to hold that the Id CIT(A) was right in granting relief to the assessee on the strength of the judgment of Hon'ble Delhi High Court in the case of Holcim India Pvt Ltd (supra) and Cheminvest Limited (supra) and other orders of Co-ordinate Benches of the Tribunal by directing the AO to recomputed

disallowance under rule 8D(2)(iii) of the Rules by excluding strategic investments in Group/subsidiary companies and also on other investments which have not yielded any exempt income during the relevant financial period i.e. A.Y. 2014-15. We are unable to see any ambiguity, perversity or any other valid reason to interfere with the order of the Id CIT(A), thus, same is confirmed. The AO is directed to recomputed the disallowance under clause (iii) of sub-rule (2) of Rule 8D as per our conclusions recorded above.

17. In the result, appeal of the revenue being devoid of merits is dismissed.

Order pronounced u/r 34(4) of I.T.Rules, 1963 on 31/3/2022.

Sd/-
(Arun Khodpia)
ACCOUNTANT MEMBER
Chennai; Dated 31/03/2022
B.K.Parida, SPS (OS)

Sd/-
(Chandra Mohan Garg)
JUDICIAL MEMBER

Copy of the Order forwarded to :

1. The Appellant : ACIT, Circle-1, Trichy
2. The Respondent. M/s. Dalmia Bharat Ltd.,Dalmiapuram, Tamilnadu -621 651,
3. The CIT(A)-29, New Delhi
4. Pr.CIT-,©-03, New Delhi
5. DR, ITAT, Chennai
6. Guard file.