

**IN THE INCOME TAX APPELLATE TRIBUNAL  
AHMEDABAD “D” BENCH, AHMEDABAD**

**BEFORE Ms. SUCHITRA KAMBLE, JUDICIAL MEMBER AND  
SHRI BHAGIRATH MAL BIYANI, ACCOUNTANT MEMBER**

***(Conducted through Virtual Court)***

**ITA No.926/Ahd/2012  
Assessment Year: 2008-09**

Corrtech International Pvt. Ltd., vs. Dy. Commissioner of Income Tax,  
22, Dhara Centre, (OSD) Range –1, Ahmedabad  
Vijay Char Rasta,  
Navrangpura,  
Ahmedabad 380 009.  
[PAN – AAACC 0134 G]

**ITA No.1118/Ahd/2012  
Assessment Year: 2008-09**

Addl. Commissioner of Income Tax, vs. Corrtech International Pvt. Ltd.,  
(OSD) Range –1, Ahmedabad. 22, Dhara Centre,  
Vijay Char Rasta,  
Navrangpura,  
Ahmedabad – 380 009.  
[PAN – AAACC 0134 G]  
(Appellants) (Respondents)

Assessee by : Shri Tushar Hemani, Sr. Advocate &  
Shri Parimalsinh Parmar, A.R.  
Revenue by : Shri Purushottam Kumar, Sr. D.R.

Date of hearing : 16.03.2022  
Date of pronouncement : 11.05.2022

**ORDER**

**PER SUCHITRA KAMBLE, JUDICIAL MEMBER :**

These are cross appeals filed by the assessee and Revenue against order dated 14.03.2012 passed by the CIT(A)-6, Ahmedabad for the Assessment Year 2008-09.

2. The assessee in its appeal **ITA No.926/Ahd/2012 for A.Y. 2008-09** has raised the following grounds of appeal :

*“The appellant craves liberty to place on record concise grounds of appeal as follows in line with Rule 8 of the Income Tax (Appellate Tribunal) Rules, 1963 :*

- “1. The Ld. CIT(A) has erred both in law and on facts of the case, in confirming the disallowance of Rs.21,87,518/- made in respect of loss on account of reacquisition of assets.
2. The Ld. CIT(A) has erred, both in law and on facts of the case, in partly confirming disallowance in respect of land restoration expenses to the tune of Rs.1,07,375/- out of total land restoration expenses of Rs.43,70,892/-.
3. The Ld. CIT(A) has erred, both in law and on facts of the case, in directing the AO to verify assessee's claim that income corresponding to TDS credit has been offered to tax in other Assessment Years and allow TDS credit only to the extent of corresponding income disclosed in the year as well as to allow TDS credit in the year in which corresponding income has been offered.
4. The Ld. CIT(A) has erred, both in law and on facts of the case, in partly confirming disallowance in respect of bogus purchases to the tune of Rs.42,48,117/- (i.e. 25%) out of total purchases of Rs.1,69,92,471/-.
5. The Ld. CIT(A) has erred, both in law and on facts of the case, in confirming disallowance of Rs.14,62,818/- being irrecoverable deposits written off in books of account in respect of Earnest Money Deposit, Advance to staff, etc.
6. The Ld. CIT(A) has erred, both in law and on facts of the case, in confirming disallowance of Rs.1,00,00,000/- being professional charges paid for project appraisal and negotiations with financial institutions for availing funds in the form of share capital.
7. Alternatively, if such expenditure is held to be capital in nature, then 1/5<sup>th</sup> of such expenditure must be allowed as deduction u/s 35D of the Act.
8. The Ld. CIT(A) has erred, both in law and facts of the case, in confirming disallowance of Rs.41,54,372/- being professional charges paid to Axis bank for due diligence.
9. Alternatively, if such expenditure is held to be capital in nature, then 1/5<sup>th</sup> of such expenditure must be allowed as deduction u/s 35D of the Act.
10. The Ld. CIT(A) has erred, both in law and on facts of the case, in confirming disallowance of Rs.6,23,810/- made in respect of dead stock expenses.
11. The Ld. CIT(A) has erred, both in law and on facts of the case, in confirming disallowance of Rs.8,74,323/- made u/s 14A of the Act.
12. The Ld. CIT(A) has erred, both in law and on facts of the case, in partly confirming proportionate disallowance under section 36(1)(iii) of the Act with a direction to AO to work out proportionate disallowance based on a formula specified in the appellate order.”

3. The Revenue in its appeal **ITA No.1118/Ahd/2012 for A.Y. 2008-09** has raised the following grounds of appeal :

*“(1) The Id. CIT(A) has erred in deleting the addition of Rs.56,08,748/- being the service tax, when the assessee has not accepted the liability and the dispute is pending before the Hon'ble Court and a liability becomes final when the made of dispute reaches finality.*

*(2) The Id. CIT(A) erred in deleting Rs.24,21,496/- being trade promotion expenses incurred by the assessee as a courtesy. Assessee has not filed any evidence, even the names of parties whom paid and the purpose of business u/s. 37(1) of the Act. The onus is on the assessee to establish that a particular expenditure correctly incurred for business purpose and justified. Reliance is placed on 63 ITR 57 (SC), 73 ITR 634 (SC), 117 ITR 945 (BOM), 227 ITR 846 (Gau.) and 249 ITR 401 (Oris.).*

*(3) The Id. CIT(A) erred in treating land restoration expenses to the extent of Rs.42,63,517/- as Revenue expenditure despite the same being capital expenditure.*

*(4) The Id. CIT(A) erred in directing the AO to allow Rs.4,66,007/- being employee's contribute if it is paid before the due date, which is against the specific provisions of 36(1)(va) r.w. 2(24)(x) in this regard for the employees contribution vis-a-vis 'employees contribution' covered by u/s. 43B of the Act.*

*(5) The Id. CIT(A) erred in confirming 25% of disallowance of total bogus expenditure (Rs.1,69,92,471/-) and deleting balance 75%, when he himself agreed fully with the AO that the assessee failed to discharge the onus of proving the expenditure in para 8.3 of his order, which is against the provisions of sec.37 of the Act.*

*(6) The Id. CIT(A) erred in allowing the expenditure under section 24 treating the rent income as house property income, when the assessee claimed expenses relevant to leased out property as business expenditure as pointed out by the AO in the order, which resulted in double deduction.*

*(7) Ld. CIT(A) erred in directing the AO to disallow the interest worked out on per formula given by him as against the amount worked out by the AO, where in the Id. CIT(A) has wrongly used the "total funds" of the company' in the denominator as against the 'borrowed funds' on which the interest expenditure is claimed by the assessee.*

*On the fact and in the circumstances of the case and in law, the Id. CIT(A) ought to have upheld the order of the Assessing Office to the extent mentioned above since the assessee has failed to disclose his true income/book profit.*

*The appellant prays that the order of Id. CIT(A) on the above grounds be set aside and that of the Assessing Officer be restored to the above extent. The appellant craves, to leave, to amend or alter any ground or add a new ground which may be necessary.”*

4. The assessee Company is engaged in the business of undertaking of turnkey projects for construction of pipeline contracts, cathodic protection system on such pipelines and other engineering services & contracts, sales and other allied services. The return of income for A.Y. 2008-09 was filed on 29.09.2008 declaring total income of Rs.16,18,89,780/-. The Assessing Officer made disallowance of service tax claimed by the assessee to the extent of Rs.56,08,745/- thereby observing that the claim of deduction of service tax pertains to prior period during the year as there a suit pending for recovery and, therefore, arbitrarily awarded which is in favour of assessee and the same cannot be considered as expenditure of the assessee or loss incurred by the assessee to be allowed as deduction in computing the total income. The Assessing Officer further disallowed claim of loss on account of reacquisition of the sold assets to the extent of Rs.21,87,518/- thereby observing that the assessee has not produced any evidence in the form of any agreement, title deed or any other document to demonstrate the cancellation of contract related to fixed assets. The Assessing Officer made disallowance of trade promotion expenses amounting to Rs.24,21,496/- observing that the said expenses were never incurred for the purpose of business of the assessee as no names of the persons to whom the documents for trade promotion were given or how they were incurred with the promotion of the business of the assessee. The Assessing Officer further made addition of Rs.43,70,892/- towards land restoration expenses. The Assessing officer also made addition of Rs.62,55,298/- towards reconciliation of the interest income and TDS claimed. The Assessing Officer made addition of Rs.4,66,007/- towards late payment of employees contribution to the PF which is not allowable under Section 36(1)(va) of the Act. The Assessing Officer made addition of Rs.1,69,92,471/- relating to booking of bogus expenses thereby observing that the assessee was not able to produce confirmation from parties and not supplied PAN of the said parties. Thus, on the ground that the assessee did not prove the identity, capacity and genuineness of the transactions of the creditors, the said addition was made. The Assessing Officer further made addition of Rs.19,41,340/- towards security deposit and retention money. The Assessing Officer made addition of Rs.41,54,372/- towards payment to Axis Pvt. Equity Limited for due diligence as well as Rs.6,23,810/- towards dead stock. The Assessing Officer disallowed claim under Section 14A of the Act and made addition of Rs.8,74,323/-. The Assessing Officer also made disallowance for expenses of rent income amounting to Rs.17,03,472/- as well as interest on diversion of funds amounting to Rs.37,63,816/-.

5. Being aggrieved by the Assessment Order, the assessee filed appeal before the CIT(A). The CIT(A) partly allowed the appeal of the assessee.

6. We are first taking up Revenue's appeal for the Assessment Year 2008-09. As regards ground no.1 of Revenue's appeal relating to deletion of addition of Rs.56,08,748/- in respect of Service Tax, the Ld. D.R. submitted that the CIT(A) ignored the fact that the assessee has made reversal entry and transaction was not properly shown relating to the purchase as well as the cancellation was also not reflected in the evidences produced before the Assessing Officer. Thus, the Ld. D.R. submitted that the CIT(A) was not right in deleting the said addition.

7. The Ld. A.R. relied upon the order of the CIT(A).

8. We have heard both the parties and perused all the relevant materials available on record. The Assessing Officer disallowed the claim of Service Tax on the ground that the said demand was related to earlier years and the said Service Tax liability of the assessee or the recipient was on that point of time disputed by the parties. The Assessing Officer has not taken cognisance of the fact that the Service Tax of Rs.56,08,748/- was paid by the assessee during the year under consideration. The deduction in respect of the Service Tax is statutory liability irrespective of the period to which such liability pertains to. Thus, the assessee is eligible for the deduction of the said amount during the year under consideration. The CIT(A) was right in deleting the said addition and there is no need to interfere with the findings of the CIT(A). Ground no.1 of Revenue's appeal is dismissed.

9. As regards to ground no.2 of Revenue's appeal in respect of deletion of trade promotion expenses of Rs.24,21,496/-, the Ld. D.R. submitted that the said expenses are allowable as and when the income is offered and thus the CIT(A) was not right in deleting the same in view of the findings of the Assessing Officer that no evidence was produced before the Assessing Officer.

10. The Ld. A.R. relied upon the order of the CIT(A)

11. We have heard both the parties and perused all the relevant materials available on record. The assessee incurred these expenses which are customary practice and

the same was allowed in earlier assessment years by the Revenue. These expenses are incurred to maintain cordial and long-lasting relationship with the customers as well as within the business co-ordinator/partners for the benefit of the business. The same are allowable under Section 37 of the Act. The said amount is 0.20% compared to assessee's turnover which is Rs.1,22,74,52,184/-. Thus, the CIT(A) rightly deleted this addition and there is no need to interfere with the findings of the CIT(A). Ground no.2 of Revenue's appeal is dismissed.

12. As regards to ground no.3 of Revenue's appeal in respect of treating land restoration expenses to the tune of Rs.42,63,517/- as revenue in nature, the Ld. D.R. submitted that the CIT(A) has ignored the finding of the Assessing Officer. These expenses were disallowed in A.Y. 2007-08 as well. The then Assessing Officer has treated the same as capital expenditure.

13. The Ld. A.R. submitted that this issue is directly covered in favour of the assessee by the order of the Tribunal in assessee's own case for the A.Y. 2007-08 (ITA No.925 & 1086/Ahd/2012, order dated 20.12.2013 wherein it has been held that if corresponding income has been offered for tax, then in view of the matching concept, corresponding expenses must be allowed.

14. We have heard both the parties and perused all the relevant materials available on record. The issue is identical in the present assessment year to that of A.Y. 2007-08 wherein the Tribunal has observed that if corresponding income has been offered for tax then corresponding expenses should also be allowed. To that extent the findings of the CIT(A) in assessee's favour for A.Y. 2008-09 is correct. Hence, ground no.3 of Revenue's appeal is dismissed.

15. As regards to ground no.4 of Revenue's appeal relating to deletion of Rs.4,66,007/- being employees contribution to PF, the Hon'ble High Court of Gujarat in case of Pr. CIT vs. M/s Suzlon Energy Ltd. R/Tax Appeal No. 860 of 2019 order dated 11.02.2020 has decided this issue against the assessee.

16. The Ld. A.R. relied upon the Tribunal's decision in the case of Mehta CAD CAM System Pvt. Ltd. vs. ACIT - ITA No.418/Ahd/2018.

17. We have heard both the parties and perused all the relevant materials available on record. It is pertinent to note that the Hon'ble High Court of Gujarat has decided this issue against the assessee in the case of Suzlon Energy Limited (supra). Therefore, we are allowing ground no.4 of Revenue's appeal.

18. As regards to ground no.5 relating to deletion of 75% of total bogus purchases, the Ld. D.R. submitted that the assessee has not given the details as well as the evidences during the assessment proceedings. The Ld. D.R. further submitted that the CIT(A) has overlooked the fact that the burden of proof were not established by the assessee during the assessment proceedings.

19. The Ld. A.R. submitted that the purchases made from the four parties upon which the CIT(A) observed that the parties are genuine. The Ld. A.R. submitted that purchase bills, goods receipt note, purchase orders, ledger for subsequent years of these parties, payments made through account payee cheque as well as chart showing material which was utilised by the assessee was submitted before the Assessing Officer. Thus, the Ld. A.R. submitted that corresponding sales when not disputed by the Assessing Officer, the Assessing Officer cannot make addition on account of bogus purchases for the said sales. The Ld. A.R. relied upon the decision of Ganesh Industries vs. ITO - ITA Nos.93 & 814/Ahd/2016 as well as CIT vs. Gujarat Ambuja Export Limited - Tax Appeal 840 of 2013 as alternate plea if the said addition is not deleted, then the same should be restricted to 5% only.

20. We have heard both the parties and perused all the relevant materials available on record. It is pertinent to note that the parties were not produced before the Assessing Officer as well as before the CIT(A), but the Assessing Officer also has not issued any notice to call for these parties. The fact also remains that the sales were never disputed and thus purchases were in consonance with the sales made by the assessee. Thus, the deletion of 75% of bogus purchases by the CIT(A) was correct and there is no need to interfere with the findings of the CIT(A). The decision relied by the Ld. A.R. that of Gujarat Ambuja (Export) Limited is factually distinguishable and hence not applicable in the present case. Ground no.5 of the Revenue's appeal is dismissed.

21. As regards to ground no.6 of Revenue's appeal regarding allowing standard deduction under Section 24(1), the Ld. D.R. submitted that treating the rent income as house property income when the assessee has claimed expenses relevant to leased house property as business expenditure amounts to double deduction and, therefore, the Assessing Officer has rightly made this addition.

22. The Ld. A.R. submitted that the assessee let out part of its business and factory building and earned rental income in accordance with the lease agreement. Thus, the same comes under the purview of income from house property. The Ld. A.R. further submitted that once the rental income is taxable under the head income from house property, the assessee is eligible standard deduction under Section 24(1) of the Act.

23. We have heard both the parties and perused all the relevant materials available on record. The CIT(A) has rightly observed that rental income was on account of leasing out part of its business & factory building and not of plant and machinery or other equipments. Since the assessee has not changed the head of income at all i.e. "rental income" as "income from house property", the same cannot be changed into "income from business and profession" in subsequent year. The CIT(A) has rightly deleted the same addition and there is no need to interfere with the findings of the CIT(A). Hence, ground no.6 of Revenue's appeal is dismissed.

24. As regards ground no.7 of Revenue's appeal, wherein CIT(A) partly confirming the disallowance under Section 36(1)(iii), the Ld. D.R. submitted that the CIT(A) was not correct in directing the Assessing Officer to disallow the interest worked out as per formula given by him as against amount worked out by the Assessing Officer. The CIT(A) has wrongly used the 'total funds' of the Company in the denominator as against the borrowed funds on which interest expenditure is incurred by the assessee. The Ld. D.R. relied upon the assessment order.

25. Ld. A.R. submitted that the assessee has made interest-free advance of Rs.1,77,76,560/- on which no interest was charged. In fact, the assessee has interest-free funds of Rs.79,32,79,838/- i.e. almost 44.63 times higher to that of interest-free advances. Ld. A.R. relied upon various decisions:

- CIT vs. Reliance Industries Ltd – (2019) 102 taxmann.com 52 (SC)
- CIT vs. Torrent Power Limited – 363 ITR 474 (Guj)
- CIT vs. Suzlon Energy Limited – 354 ITR 630 (Guj)
- CIT vs. Gujarat Power Corporation Limited – 352 ITR 583 (Guj)
- CIT vs. Hitachi Home & Life Solutions (I) Ltd. – (2014) 41 taxmann.com 540 (Guj)
- CIT vs. Reliance Utilities & Power Limited – 313 ITR 340 (Bom)
- Munjal Sales Corporation vs. CIT – 298 ITR 298 (SC)

26. We have heard both the parties and perused all the relevant materials available on record. It is not disputed by the Revenue that the interest-free funds are lesser than the interest-free advances. The CIT(A) has properly given part relief thereby directing the Assessing Officer to work out the proportionate interest on specific formula envisaged by the CIT(A) in the order. Therefore, there is no need to interfere with the findings of the CIT(A). Ground no.7 of Revenue's appeal is dismissed.

27. Now we are taking up assessee's appeal. As regards ground no.1 of assessee's appeal relating to confirming disallowance of Rs.21,87,518/- made in respect of losses on account of reacquisition of assets. The Ld. A.R. submitted that the assessee sold certain assets in A.Y. 2007-08 declaring profit of Rs.21,87,518/- but the said transaction of sale was never materialised and, therefore, the assessee in assessment year 2008-09 reversed the said transaction by booking loss of equipment amount. The Ld. A.R. submitted that the reversal entry was passed in the year under consideration so as to nullify the effect of gain offered in earlier year. The Ld. A.R. further submitted that the purchase price of the underlying assets has been recorded in A.Y. 2008-09 at the same value at which the same were recorded in A.Y. 2007-08. Thus, on account of reversal of transaction as to sale of the underlying assets, the assessee has claimed loss of Rs.21,87,518/- offered in A.Y. 2007-08. It is a settled law that only real income can be taxed and not notional income. The Ld. A.R. relied upon the decision of the Apex Court in the case of Godhra Electricity Co. Ltd. Vs. CIT – 225 ITR 746 (SC). The Ld. A.R. alternatively made submission that if the impugned addition is upheld, direction may be given to reduce the gain of Rs.21,87,518/- offered in A.Y. 2007-08 from income of that year. The Ld. A.R. relied upon the decision of Perfect Equipment vs. DCIT 85 ITD 50 (Ahd).

28. The Ld. D.R. relied upon the assessment order and the order of the CIT(A).

29. We have heard both the parties and perused all the relevant materials available on record. It is pertinent to note that the fact remains that the actual transaction of sales never took place in A.Y. 2007-08 and, therefore, the reversal was called by the assessee in A.Y. 2008-09 but the assessee has not given the details as to what caused the reversal of entries. Therefore, the said transaction of sale whether happened in A.Y. 2007-08 or in subsequent year that of 2008-09 was not proved by the assessee. The CIT(A) has rightly confirmed this addition as such kind of reversal entry is not acceptable in respect of the transaction which has not been proved by the assessee before the Revenue Authorities. Hence, ground no.1 of the assessee's appeal is dismissed.

30. As regards ground no.2 of assessee's appeal relating to partly confirming disallowance of Rs.1,07,395/-, the same is in correlation with ground no.3 of Revenue's appeal for which we have given a detailed finding in hereinabove paragraphs and, therefore, ground no.2 of assessee's appeal is dismissed.

31. Ground no.3 of assessee's appeal is not pressed as the order giving effect to the order of CIT(A) has granted relief to the assessee. Hence, ground no.3 of assessee's appeal is dismissed.

32. As regards ground no.4 of the assessee's appeal relating to partly confirming the disallowance of Rs.42,48,117/- being 25% of the total bogus purchases. The said ground is in connection with ground no.5 of Revenue's appeal for which we have given detailed finding in hereinabove paragraphs. Thus, ground no.4 of assessee's appeal is dismissed.

33. As regards ground no.5 of assessee's appeal relating to confirming of disallowance of Rs.14,62,818/- being irrecoverable deposit written off in books, the Ld. A.R. submitted that staff loan, earnest money deposit, advances to staff and other deposit written off were given in the normal course of business of the assessee and the CIT(A) should have deleted this addition. When such sum becomes irrecoverable then the same are written off in the books of account and should be allowed as "business

loss” under Section 28 or 37 of the Act. The Ld. A.R. relied upon the following decisions:-

- CIT vs. Abdul Razak & Co. (1982) 136 ITR 825 (Guj)
- Badridas Daga vs. CIT – (1958) 34 ITR 10 (SC)
- CIT vs. Nainital Bank Limited – (1965) 55 ITR 707 (SC)
- ITO vs. M.V. Mathew – (1994) 72 Taxman 89 (Cochin) (Mag)
- Ramchandar Shivnarayan vs. CIT – (1978) 111 ITR 263 (SC)
- Devi Films (P) Ltd. vs. CIT – (1970) 75 ITR 301 (Mad)
- T.L. Lalvani vs. CIT – (1970) 78 ITR 176 (Bom)
- DCIT vs. Gujarat Small Industries Corporation – 84 TTJ 22 (Ahd)
- Lord’s Dairy Farm Ltd. Vs CIT – 27 ITR 700 (Bom)

34. The Ld. D.R. relied upon the assessment order and the order of the CIT(A).

35. We have heard both the parties and perused all the relevant materials available on record. The contentions of the assessee that the said expenses/sum becomes irrecoverable were not disputed by the Revenue Authorities. Therefore, the Assessing Officer as well as the CIT(A) was not correct in treating the same as capital loss. The case laws relied upon by the Ld. A.R. are very much relevant in assessee’s case. Ground no.5 of the assessee’s appeal is allowed.

36. As regards ground nos.6 & 7 of assessee’s appeal relating to confirmation of disallowance of Rs.1,00,00,000/- being professional charges, the Ld. A.R. submitted that the said expenses were wholly and exclusively incurred for the business purpose are revenue in nature. Thus, the same are allowable under Section 37 of the Act. Alternatively, the Ld. A.R. submitted that the assessee is eligible for claiming 1/5<sup>th</sup> of such expenses under Section 35D of the Act. The Ld. A.R. relied upon the decision of DCIT vs. M/s. Mercury Projects Pvt. Ltd - ITA No.450/Hyd/2017.

37. The Ld. D.R. relied upon the assessment order and the order of CIT(A).

38. We have heard both the parties and perused all the relevant materials available on record. It is pertinent to note that the CIT(A) has not called for any remand report from the Assessing Officer in connection with the claim of deduction under Section 35D and, merely on technical ground that there is no material available on assessment

record, dismissed this claim of the assessee. Therefore, it will be appropriate to remand back this issue to the file of the Assessing Officer for proper adjudication after verifying the evidences produced before the Assessing Officer. Needless to say the assessee be given opportunity of hearing in respect of claim of deduction under Section 35D of the Act. Ground nos.6 & 7 are partly allowed for statistical purpose.

39. As regards to ground nos.8 & 9 of the assessee's appeal relating to confirming the disallowance of Rs.41,54,372/- being professional charges, the Ld. A.R. has taken similar submissions to that of ground nos.6 & 7. Therefore, we are remanding back the said issue in the light of claim of deduction under Section 35D of the Act. Ground nos.8 & 9 are, therefore, partly allowed for statistical purposes.

40. As regards to ground no.10 of assessee's appeal relating to confirming disallowance of Rs.6,23,810/- made in respect of dead stock expenses, the Ld. A.R. submitted that the said issue is covered against the assessee in assessee's own case for A.Y. 2007-08 being ITA No.3076/Ahd/2010, order dated 25.10.2011. Therefore, ground no.10 is dismissed.

41. As regards to ground no.11 of the assessee's appeal regarding confirmation of disallowance of Rs.8,74,323/- under Section 14A of the Act, the Ld. A.R. submitted that the assessee has substantial interest-free funds against the investments which is almost 17.60% higher and, therefore, when the assessee has earned exempt income in the current year, no disallowance under Section 14A is called for. The Ld. A.R. relied upon the following decisions:

- CIT vs. Reliance Industries Ltd – (2019) 102 taxmann.com 52 (SC)
- CIT vs. Torrent Power Limited – 363 ITR 474 (Guj)
- CIT vs. Suzlon Energy Limited – 354 ITR 630 (Guj)
- CIT vs. Gujarat Power Corporation Limited – 352 ITR 583 (Guj)
- CIT vs. Hitachi Home & Life Solutions (I) Ltd. – (2014) 41 taxmann.com 540 (Guj)
- CIT vs. Reliance Utilities & Power Limited – 313 ITR 340 (Bom)
- Munjal Sales Corporation vs. CIT – 298 ITR 298 (SC)

42. The Ld. D.R. relied upon the assessment order and the order of the CIT(A).

43. We have heard both the parties and perused all the relevant materials available on record. The investments which were made by the assessee are more than the interest-free funds and the assessee has earned exempt income in the present A.Y. Therefore, as per the various decisions of the jurisdictional High Court as well as by the Apex Court, the disallowance under Section 14A of the Act is not just and proper on the parts of the Assessing Officer and the CIT(A). Ground No.11 of the assessee's appeal is, therefore, allowed.

44. As regards to ground no.12 of assessee's appeal relating to partly confirming the disallowance under Section 36(1)(iii) of the Act, the same is in consonance with ground no.7 of Revenue's appeal and, therefore, the same is dismissed.

45. In the result, appeal of the Revenue is partly allowed and appeal of the assessee is partly allowed for statistical purposes.

Order pronounced in the open Court on this 11<sup>th</sup> day of May, 2022.

Sd/-  
**(BHAGIRATH MAL BIYANI)**  
Accountant Member

Sd/-  
**(SUCHITRA KAMBLE)**  
Judicial Member

**Ahmedabad, the 11<sup>th</sup> day of May, 2022**

PBN/\*

Copies to: (1) The appellant  
(2) The respondent  
(3) Commissioner  
(4) CIT(A)  
(5) Departmental Representative  
(6) Guard File

By order

Assistant Registrar  
Income Tax Appellate Tribunal  
Ahmedabad benches, Ahmedabad