

**IN THE INCOME TAX APPELLATE TRIBUNAL,
DELHI BENCH: 'F' NEW DELHI**

**BEFORE SHRI SAKTIJIT DEY, JUDICIAL MEMBER
AND
PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER**

ITA No.100/Del/2019
Assessment Year: 2015-16

Parmesh Finlease Ltd., Plot No.211, Second Floor, Hemkunt Chamber, 89-Nehru Place, New Delhi Pin: 110019	Vs.	ACIT, Circle 19(2), New Delhi
PAN :AAACP1086G		
(Appellant)		(Respondent)

Appellant by	Shri Gaurav Kabra, CA
Respondent by	Shri Shayam Manohar Singh, Sr. DR

Date of hearing	05.05.2022
Date of pronouncement	19.05.2022

ORDER

PER SAKTIJIT DEY, JUDICIAL MEMBER:

This is an appeal by the assessee against order dated 29.10.2018 of learned Commissioner of Income-Tax(Appeals)-7, New Delhi for the assessment year 2015-16.

2. The dispute in the present appeal is confined to the disallowance made under Section 14A read with Rule 8D.

3. Briefly, the facts are, the assessee is a resident company registered as a Non-Banking Financial Company (NBFC). For the assessment year under dispute, assessee had filed its return of income on 28.09.2015, declaring income of Rs.2,78,30,426. In course of assessment proceedings, Assessing Officer noticed that assessee had voluntarily disallowed expenses of Rs.94,549 under Section 14A of the Act read with Rule 8D. From the material on record, Assessing Officer noticed that the closing balance of investment stands at Rs.3,96,49,058. Thus, the Assessing Officer was of the view that disallowance made by the assessee was not in accordance with Rule 8D read with Section 14A of the Act. Accordingly, he proceeded to compute disallowance by applying the provisions of Rule 8D. In the process, he disallowed an amount of Rs.3,81,231 towards interest expenditure under Rule 8D(2)(ii) and Rs.99,123 towards administrative expenditure under Rule 8D(2)(iii) Act. Thus, he computed the aggregate disallowance at Rs.4,80,354. After reducing the suo motu disallowance made by the assessee, he made a net disallowance of Rs.3,85,805. The aforesaid disallowance made by the Assessing Officer was also sustained by learned Commissioner (Appeals).

4. Before us, learned counsel for the assessee submitted, assessee had sufficient interest free fund available with it to take care of the investments.

Therefore, no disallowance of interest expenditure can be made under Rule 8D(2)(ii). As regards, disallowance of administrative expenditure under Rule 8D(2)(iii), learned counsel submitted, let such disallowance be made by considering only those investments which have yielded exempt income during the year under consideration.

5. Learned Departmental Representative relied upon the observations of the Assessing Officer and learned Commissioner (Appeals).

6. We have considered rival submissions and perused the material available on record.

7. On perusal of the balance sheet of the assessee as at 31st March 2015, it is observed that interest free fund available with the assessee is much more than the investment made in exempt income yielding assets. Therefore, as per the settled legal principles, no disallowance of interest expenditure can be made under Rule 8D(2)(ii), as, the presumption would be that interest free fund has been utilized for making the investment. Therefore, we delete the disallowance of Rs.3,81,231 made under Rule 8D(2)(ii).

8. As regards, the disallowance of Rs.99,123 made under Rule 8D(2)(ii), it is a fact on record that the assessee itself has voluntarily disallowed an amount of Rs.94,549. Therefore, in our considered opinion, no further disallowance under Rule 8D(2)(iii) should be made. Accordingly, we direct the Assessing Officer to

restrict the disallowance under Section 14A read with Rule 8D to the amount already disallowed by the assessee. Grounds are allowed.

9. In the result, appeal is allowed.

Order pronounced in the open court on 19th May, 2022.

**Sd/-
(PRADIP KUMAR KEDIA)
ACCOUNTANT MEMBER**

**Sd/-
(SAKTIJIT DEY)
JUDICIAL MEMBER**

Dated: 19th May, 2022.

Mohan Lal

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi

Sl. No.	Particulars	Date
1.	Date of dictation (Order drafted through Dragon software):	10.05.2022
2.	Date on which the draft of order is placed before the Dictating Member:	13.05.2022
3.	Date on which the draft of order is placed before the other Member:	.05.2022
4.	Date on which the approved draft of order comes to the Sr. PS/PS:	16.05.2022
5.	Date of which the fair order is placed before the Dictating Member for pronouncement:	17.05.2022
6.	Date on which the final order received after having been signed/pronounced by the Members:	19.05.2022
7.	Date on which the final order is uploaded on the website of ITAT:	.05.2022
8.	Date on which the file goes to the Bench Clerk	.05.2022
9.	Date on which files goes to the Head Clerk:	
10.	Date on which file goes to the Assistant Registrar for signature on the order:	
11.	Date of dispatch of order:	