

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "A", PUNE

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER
AND
SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.76/PUN/2018
निर्धारण वर्ष / Assessment Year: 2013-14

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| Ahmednagar Shahar Sahakari Bank Ltd., Shantilal Gandhi Tax Consultant, 1 st Floor, 146, Amber Plaza Stati, Ahmednagar- 414001. PAN : AAABB0323R | Vs. | ACIT, Ahmednagar Circle, Ahmednagar. |
| Appellant | | Respondent |

Assessee by : Shri C. H. Naniwadekar
Revenue by : Shri S. P. Walimbe

Date of hearing : 23.05.2022
Date of pronouncement : 26.05.2022

आदेश / ORDER

PER INTURI RAMA RAO, AM:

This is an appeal filed by the assessee directed against the order of Id. Commissioner of Income Tax (Appeals)- 2, Pune ['CIT(A)' for short] dated 24.10.2017 for the assessment year 2013-14.

2. Briefly, the facts of the case are that the appellant is a cooperative bank engaged in banking business. The return of income for the assessment year 2013-14 was filed on 02.10.2013

declaring total income of Rs.7,18,86,595/-. Against the said return of income, the assessment was completed by the Assistant Commissioner of Income Tax, Ahmednagar Circle, Ahmednagar ('the Assessing Officer') vide order dated 30.03.2016 passed u/s 143(3) of the Income Tax Act, 1961 ('the Act') at total income of Rs.10,83,41,170/-. While doing so, the Assessing Officer made disallowance of Rs.47,96,280/- on account of Broken Period Interest. The Assessing Officer also made addition of Rs.3,16,20,370/- under the provisions of section 14A of the Act, with which, we are concerned.

3. Being aggrieved by the above disallowances, an appeal was filed before the ld. CIT(A), who vide impugned order directed the Assessing Officer to delete the addition made on account of Broken Period Interest of Rs.47,96,280/-. The ld. CIT(A) also directed the Assessing Officer to delete the addition made u/s 14A r.w. Rule 8D(2)(ii) of the Income Tax Rules, 1962 ('the Rules'), however, failed to deal with the disallowance made under clause (iii) of Rule 8D(2) of the Rules.

4. Being aggrieved by the above decision of the ld. CIT(A), the appellant is in appeal before us.

5. The ld. AR, Shri C. H. Naniwadekar submitted that while computing the average value of investments, the Assessing Officer had computed monthly average value of investments as provided under the amended Rules w.e.f. 02.06.2016 which are not applicable to the assessment year under consideration. He submitted that the average value of investments as envisaged under clause (iii) of Rule 8D(2) of the Rules should be computed by adopting at 0.5% average value of investments, only opening balance of investments in the beginning of the year and closing balance of investments at the end of the year alone should be taken into consideration. He further submitted that the amount of disallowance under clause (iii) of Rule 8D(2) of the Rules cannot exceed exempt income.

6. On the other hand, ld. Sr. DR expressed no serious objection to the submission made on behalf of the appellant.

7. We heard the rival submissions and perused the material on record. The issue in the present appeal relates to the manner of computation of disallowance under clause (iii) of Rule 8D(2) of the Rules. From reading of the assessment order, it is not clear as to how the Assessing Officer had arrived at average value of investments. Even the ld. CIT(A) had not clearly dealt with as to the manner of computation of disallowance under clause (iii) of

Rule 8D(2) of the Rules. Therefore, to meet the interests of justice, we remand the matter to the file of the Assessing Officer to compute the amount of disallowance under clause (iii) of Rule 8D(2) as provided in the Rules during the relevant period. Thus, this issue raised by the assessee stands partly allowed for statistical purposes.

8. In the result, the appeal filed by the assessee stands partly allowed for statistical purposes.

Order pronounced on this 26th day of May, 2022.

Sd/-
(PARTHA SARATHI CHAUDHURY)
JUDICIAL MEMBER

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 26th May, 2022.

Sujeet

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

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

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.