

आयकर अपीलिय अधिकरण, अहमदाबाद न्यायपीठ 'A' अहमदाबाद।  
IN THE INCOME TAX APPELLATE TRIBUNAL  
"A" BENCH, AHMEDABAD

BEFORE SHRI PRAMOD M. JAGTAP, VICE PRESIDENT  
AND  
MS. SUCHITRA KAMBLE, JUDICIAL MEMBER

ITA No. 162/Ahd/2020  
Assessment Year : 2014-15

CLP India Pvt. Ltd., 6 <sup>th</sup> Floor, Chanakya Building, Off. Ashram Road, Navrangpura, Ahmedabad-380009 PAN : AAACG 7999 P	Vs	Dy. Commissioner of Income-tax, Circle 1(1)(2), Ahmedabad
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ITA No. 249/Ahd/2020 & CO No. 1/Ahd/2021  
Assessment Year : 2014-15

Dy. Commissioner of Income-tax, Circle 1(1)(2), Ahmedabad	Vs	CLP India Pvt. Ltd., 6 <sup>th</sup> Floor, Chanakya Building, Off. Ashram Road, Navrangpura, Ahmedabad-380009 PAN : AAACG 7999 P
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(Appellant)		(Respondent)/Cross-Objector
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Assessee by :	Shri Vartik Chokshi, AR & Shri Biren Shah, AR
Revenue by :	Shri Vijay Kumar Jaiswal, CIT-DR & Shri Mukesh Kumar Sharma, Sr DR

सुनवाई की तारीख/Date of Hearing : 01/06/2022  
घोषणा की तारीख /Date of Pronouncement: 15/06/2022

**आदेश / O R D E R**

**PER PRAMOD M. JAGTAP, VICE-PRESIDENT**

These two appeals - one filed by the assessee being ITA No.162/Ahd/2020 and other filed by the Revenue being ITA No.249/Ahd/2020, are cross appeals which are directed against the order of learned Commissioner of Income-tax (Appeals)-1, Ahmedabad ("CIT(A)" in short) dated 20.01.2020 for Assessment Year 2014-15 and the same are being

disposed of along with Cross Objection filed by the assessee being CO No.1/Ahd/2021.

2. The solitary common issue involved in these cross appeals relates to the disallowance of Rs.19,94,51,882/- made by the Assessing Officer under Section 14A of the Income-tax Act, 1961 ("the Act" in short) which is restricted by the learned CIT(A) to Rs.55,55,000/-.

3. The assessee, in the present case, is a company which is engaged in the business of generation and sale of electricity. The return of income for the year under consideration was filed by it on 20.11.2014 declaring a total income of Rs.2,74,75,91,590/-. The said return was selected for scrutiny through CASS. As noted by the Assessing Officer during the course of assessment proceedings, the assessee had made investment in shares and received dividend amounting to Rs. 50,000/- in the year under consideration which was claimed exempt from tax. The expenditure incurred in relation to the said exempt income however was not disallowed by the assessee as required by the provisions of Section 14A of the Act. In this regard, a detailed submission was made on behalf of the assessee before the Assessing Officer submitting *inter alia* that the disallowance under Section 14A of the Act read with Rule 8D could not be more than the exempt income actually earned by the assessee in the year under consideration amounting to Rs.50,000/- in the form of dividend. The Assessing Officer did not find merit in the submission made on behalf of the assessee and proceeded to make disallowance of Rs.19,94,51,882/- under Section 14A, as worked out below, by applying Rule 8D :-

(i) Expenditure directly relating to the exempt income under Rule 8D (2)(i)	-	Nil
(ii) Proportionate interest expenditure under Rule 8D(2)(ii)-		39,41,157.00

(iii) Common office and administrative expenses	- 19,55,10,725.00
1/2% of average value of investment, income from which was exempt from tax as per Rule 8D(2)(iii)	
Total	- 19,94,51,882.00

4. The disallowance of Rs.19,94,51,882/- made by the Assessing Officer under Section 14A of the Act r.w. Rule 8D was challenged by the assessee in an appeal filed before the learned CIT(A) and after considering the submissions made on behalf of the assessee as well as the material available on record, the learned CIT(A) restricted the said disallowance to Rs.55,55,000/- for the following reasons given in paragraph nos. 5.5 and 5.6 of his impugned order:-

*"5.5 It is observed that in year under consideration AO has made disallowance under Section 14A read with Rule 8D(2)(ii) for Rs.39,41,157/-. It is found that even during the year under consideration Appellant has earned net interest income as stated in para 2.4.1 of statement of facts. It is found that in earlier Assessment Years my predecessor CIT (Appeals) has held that as Appellant has earned net interest income, disallowance cannot be made under Rule 8D(2)(ii). This view is now further supported by decision of Hon'ble Gujarat High Court in the case of Nirma Credit & Capital Pvt Limited 85 taxmann.com 72 (supra). On this basis disallowance made by AO for Rs.39,41,157/- is deleted.*

*5.6 So far as disallowance of administrative expenses is concerned, ARs of the Appellant have argued that same should be restricted to exempt income. However, it is found that in present case my predecessor CIT (Appeals) has restricted such disallowance to 1% of certain administrative expenses and as appeal filed by Appellant is pending for adjudication by Hon'ble Ahmedabad ITAT, disallowance made by AO is dealt with after considering observation made by predecessor CIT (Appeals), as referred supra. The disallowance of such expenditure is restricted as under:*

Particulars	Amount (Rs in lakhs.)
Employee's benefit expenses	2808.00
Rent	114.20
Insurance	731.3
Travelling and conveyance	239.90
Legal and professional	797.20

<i>Auditor 's remuneration</i>	72.70
<i>Rates &amp; taxes</i>	76.30
<i>Misc. expenses</i>	715.10
<i>Total</i>	5554. 70
<i>1% of above expenditure</i>	55.55

*On this basis, disallowance of administrative expenses for Rs.19.55 crores is restricted to Rs.55,55,000/-. Thus, aggregate disallowance made by AO for Rs. 19,94,51,882/- is restricted to Rs.55,55,000/-. The Ground No.2 is, thus, partly allowed."*

5. Aggrieved by the order of the learned CIT(A), the assessee and Revenue – both are in appeal before the Tribunal on the following grounds:-

*Ground Raised in Revenue's appeal*

*The CIT(A) has erred in law and facts in restricting the addition of Rs.19,94,51,882/- made as per the provisions of Section 14A r.w. Rule 8D of the Act.*

*Grounds raised in assessee's appeal*

- 1. On the facts and in the circumstances of the case, the learned CIT(A) erred in confirming disallowance to the extent of Rs.55,55,000/- from out of total disallowance of Rs.19,94,51,882/- made by the Assessing Officer u/s 14A of the I.T. Act.*
- 2. Without prejudice to ground No.1 above, on the facts and in the circumstances of the case, the learned CIT(A) ought to have restricted the disallowance u/s 14A to Rs.50,000/- only in view of the fact that the total exempt income earned by the appellant during this year was Rs.50,000/-.*

6. We have heard the arguments of both the sides and also perused the relevant material available on record. It is observed that a similar issue was involved in assessee's own case in the immediately preceding year i.e. AY 2013-14 and the same was decided by the Tribunal vide paragraph Nos. 4 & 5 of its order dated 30.01.2020 passed in ITA Nos. 1163 & 1186/Ahd/2018 as under:-

*4. We have gone through the relevant record and impugned order. At the outset, ld. A.R. Shri S.N. Soparkar stated that present case is clearly covered*

by order of Hon'ble Jurisdictional High Court in Tax Appeal No. 486 of 2017 in the matter of CIT-Vadodara-2 vs. Vision Finstock Ltd. wherein similar facts and circumstances appeal of the Revenue was dismissed with following observation:

1. The Revenue has challenged the judgement of the Income Tax Appellate Tribunal dated 07.07.2016 raising following questions for our consideration:

"A. Whether on the facts and circumstances of the case and in law, the ITAT was justified in restricting the disallowance made of Rs. 1,02,82,049/- u/s. 14A to the extent of exempt income of Rs. 55,604/- only?

B. Whether on the facts and circumstances of the case and in law, the ITAT was justified in restricting the disallowance of Rs. 1,02,82,049/- made u/s. 14A of the Act to the extent of income earned of Rs. 55,604/- without appreciating that the assessee had paid interest of Rs. 1,45,52,632/- on borrowed funds?"

2. From the record it emerges that, during the period relevant to the assessment year 2008-09, the assessee had earned exempt income of Rs. 55,604/-. As against that, the Assessing Officer had worked out the disallowance of expenditure under section 14A of the Act read with Rule 8D to Rs. 1,02,82,049/-. The Tribunal, while restricting the disallowance to Rs. 55,604/-, relied on the decision of Delhi High Court in case of Joint Investments (P) Ltd vs. CIT reported in 372 ITR 694 holding that disallowance of expenditure in terms of section 14A read with Rule 8D cannot exceed the exempt income itself. Our High Court has also adopted the similar view in case of Commissioner of Income Tax vs. Corrttech Energy Pvt. Ltd. reported in 372 ITR 97.

3. Tax appeal is, therefore, dismissed.

5. As we can see, assessee total dividend income is Rs. 50,000/- so there cannot be disallowance of Rs. more than 50,000/-. Respectfully following the above quoted judgment, we allow the appeal of the assessee."

7. The Tribunal thus restricted the similar disallowance made by the Assessing Officer and sustained by the learned CIT(A) under Section 14A of the Act read with Rule 8D in assessee's own case for AY 2013-14 to

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Rs.50,000/- being the exempt income actually earned by the assessee in that year by following the decision of Hon'ble jurisdictional High Court in the case of Vision Finstock Ltd (supra). The solitary issue involved in this cross appeals is thus squarely covered in favour of the assessee by the decision of the Co-ordinate Bench of this Tribunal rendered in assessee's own case for the immediately preceding year i.e. AY 2013-14 as well as the decision of Hon'ble jurisdictional High Court in the case of Vision Finstock Ltd (supra) and this position is not disputed even by the learned DR. We, therefore, respectfully follow the said judicial pronouncements and restrict the disallowance made by the Assessing Officer under Section 14A read with Rule 8D and sustained by the learned CIT(A) to Rs.50,000/- being the exempt income actually earned by the assessee in the year under consideration. In the result, the appeal of the Revenue is dismissed while the appeal of the assessee is partly allowed.

8. At the time of hearing before the Tribunal, the learned Counsel for the assessee has not pressed the Cross Objection filed by the assessee; the same is accordingly dismissed as not pressed.

9. In the result, the appeal filed by the Revenue and the Cross-objection filed by the assessee are dismissed while the appeal filed by the assessee is partly allowed.

**Order pronounced in the open Court on 15<sup>th</sup> June, 2022 at Ahmedabad.**

*Sd/-*

**(SUCHITRA KAMBLE)  
JUDICIAL MEMBER**

Ahmedabad, Dated 15/06/2022

*Sd/-*

**(PRAMOD M. JAGTAP)  
VICE-PRESIDENT**

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)-
5. विभागीय प्रतिनिधि,आयकर अपीलीय अधिकरण , /DR,ITAT, Ahmedabad,
6. गार्ड फाईल /Guard file.

आदेशानुसार/ BY ORDER,

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सहायक पंजीकार (Asstt. Registrar)  
आयकर अपीलीय अधिकरण, ITAT, Ahmedabad