

आयकर अपीलीय अधिकरण "ए" न्यायपीठ पुणे में ।  
IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH, PUNE

BEFORE SHRI S.S.GODARA, JM  
AND SHRI DR. DIPAK P. RIPOTE, AM

आयकर अपील सं. / ITA No.2565/PUN/2017  
निर्धारण वर्ष / Assessment Year : 2013-14

Niraj Kumar Associates Pvt. Ltd.,  
129/2, Mont Vert Marc,  
Pashan-Sus Road,  
Pashan – 411 021

PAN : AAACN6424G

.....अपीलार्थी / Appellant

बनाम / V/s.

ACIT, 2, Pune

.....प्रत्यर्थी / Respondent

Assessee by : Shri Pramod S. Shingte  
Revenue by : Shri S. P. Walimbe

सुनवाई की तारीख / Date of Hearing : 05.05.2022  
घोषणा की तारीख / Date of Pronouncement : 13.05.2022

**आदेश / ORDER**

**PER S. S. GODARA, JM :**

1. This assessee's appeal for A.Y. 2013-14 is directed against the CIT(A), Pune's order dated 31/08/2017 passed in case No.ITBA/APL/S/250/2017-18/1006031785(1) involving proceeding u/s. 143(3) of the Income Tax Act, 1961 ; in short "the Act.

Heard both the parties. Case file perused.

2. Coming to the assessee's sole substantive grievance raised in the instant appeal that both the learned lower authorities have erred in law and

on facts in making Section 14A r.w. rule 8D disallowance, we note that the Assessing Officer had computed proportionate interest and administration expenditure sums of Rs.64,19,226/- and Rs.9,64,083/-; respectively totaling to Rs.73,83,309/-. The CIT(A) has enhanced the same to the extent of Rs.1,40,88,702/- thereby holding that it is not the average value of net investment involving credit and debit balances but average value of the investments itself that has to be taken into consideration.

This leaves the assessee aggrieved.

3. Learned counsel first of all has filed the assessee's financial's position as well as corresponding shareholder funds and unsecured loans totaling to Rs.55,45,13,814/- as against the average balance of investment amount of Rs.36,79,29,350/- taken in the CIT(A)'s order. He quotes CIT Vs Reliance Utilities & Power Ltd 313 ITR 340 (Bom) that necessary presumption is such an instance is of investment of interest free funds only. Learned lower authorities do not seem to have considered all these clinching aspects in their respective orders. We thus restore this proportionate interest expenditure disallowance issue back to the Assessing Officer for his afresh adjudication as per law.

Coming to the administrative expenditure disallowance component, we quote REI Agro Ltd. V/s. DCIT (2013) 144 ITR 141 (Kolkata) that only dividend yielding than the entire investments have to be taken into consideration Hon'ble Calcutta high court has also confirmed the same in GA No.358/2013 in Revenue's appeal. The assessing authority shall

accordingly compute this latter head of administrative expenditure disallowance afresh as per law.

3. This assessee's appeal is allowed for stastical purposes in above terms.  
Order pronounced in the Open Court on this 13<sup>th</sup> day of May, 2022.

**Sd/-**

**Sd/-**

**(DR.DIPAK P.RIPOTE)**

**(S.S. GODARA)**

लेखा सदस्य/ **ACCOUNTANT MEMBER**

न्यायिक सदस्य/**JUDICIAL MEMBER**

पुणे / Pune; दिनांक / Dated : 13<sup>th</sup> May, 2022.  
Ashwini

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A), Pune.
4. The Pr.CIT-2, Pune.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "ए" 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.

S.No.	Details	Date	Initials
1	Draft dictated on	06.05.2022	
2	Draft placed before author	12.05.2022	
3	Draft proposed & placed before the Second Member		
4	Draft discussed/approved by Second Member		
5	Approved Draft comes to the Sr. PS/PS		
6	Kept for pronouncement on		
7	Date of uploading of Order		
8	File sent to Bench Clerk		
9	Date on which the file goes to the Head Clerk		
10	Date on which file goes to the A.R.		
11	Date of Dispatch of order		