

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.2712/PUN/2017  
निर्धारण वर्ष / Assessment Year : 2013-14

Shri Pramod B. Ranka,  
19A/3B C Wing,  
2<sup>nd</sup> Floor, K K Market,  
Bibwewadi,  
Pune- 411 037.

PAN : AASPR4502N

.....अपीलार्थी / Appellant

बनाम / V/s.

DCIT, Circle-5, Pune

.....प्रत्यर्थी / Respondent

Assessee by : Shri Kisore B Phadke  
Revenue by : Shri S. P. Walimbe

सुनवाई की तारीख / Date of Hearing : 12.05.2022  
घोषणा की तारीख / Date of Pronouncement : 08.06.2022

**आदेश / ORDER**

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

1. This assessee's appeal for A.Y. 2013-14 is directed against the CIT(A) - 4, Pune's order dated 04/07/2017 passed in case No. PN/CIT(A) -4/DCIT, Circle-5, Pune/143/2016-17/456 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 both the lower authorities erred in law and on facts in invoking section 14A r.w. Rule 8D disallowance of proportionate interest and administrative expenditure heads; totaling to Rs.19,51,288/-, learned counsel's sole argument before us is that this tax-payer's non bearing funds are much more than corresponding investments made for deriving exempt income. He quotes CIT Vs Reliance Utilities & Power Ltd. 313 ITR 340 that necessary presumption in such an instances is of investment of non interest bearing funds only. Mr.Phadke further sought to highlight the fact hon'ble apex court's latest decision in (2021) 13 taxmann.com 178 (SC) South Indian Bank Vs. CIT has also reiterated the very legal position.

3. The Revenue placed strong reliance of both the lower authorities action making the impugned disallowance.

4. We have given our thoughtful consideration to the forgoing rival pleadings and find force in assessee's stand in principle in view of the settled legal position as on date (supra) . The facts also remains that the Assessing Officer needs to compute the impugned proportionate interest disallowance afresh after carrying out the factual verification of assessee's interest free as well as interest bearing funds viz-a-viz the investments made herein. Coupled with this there is no indication that the learned lower authorities

have made administrative expenses disallowance going by the investments yielding exempt income only in light of ACIT Vs. Vineet Investments (P) Ltd 165 ITD 27 (Delhi) (SB) and (2013) 144 ITD 141(Kolkata) REI Agro Ltd. Vs. DCIT. We thus restore both these issues qua the impugned u/s. 14A rule 8D disallowance; back to the Assessing Officer in very terms. Ordered accordingly.

5. This assessee's appeal is allowed for statistical purposes in above terms.

Order pronounced in the Open Court on this 8<sup>th</sup> day of June, 2022.

**Sd/-**

**Sd/-**

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

**(S.S. GODARA)**

लेखा सदस्य/ **ACCOUNTANT MEMBER**

न्यायिक सदस्य/**JUDICIAL MEMBER**

पुणे / Pune; दिनांक / Dated : 8<sup>th</sup> June, 2022.

Ashwini

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A)-4, Pune.
4. The Pr.CIT-3,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	12.05.2022	
2	Draft placed before author	31.05.2022	
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		