

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

**BEFORE SHRI N. K. BILLAIYA, ACCOUNTANT MEMBER
AND
SH. YOGESH KUMAR U.S., JUDICIAL MEMBER**

I.T.A. No. 4481/DEL/2019 (A.Y 2015-16)

Taurus Home Furnishings Ltd. P-65, IIIrd Floor, South Extension-II, New Delhi PAN: AACCT3484A (APPELLANT)	Vs.	ACIT Circle-25(1) Room No. 192A, C. R. Building, New Delhi (RESPONDENT)
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Assessee by :	Sh. Parveen Kumar, CA and Sh. Gaurav Bhuddi, CA
Department by:	Shri Sita Ram Meena, Sr. D.R.;

Date of Hearing	16.06.2022
Date of Pronouncement	05 .06.2022

ORDER

PER YOGESH KUMAR U.S., JM

This appeal has been filed by the assessee against the order dated 11/03/2019 passed by CIT(A)-9, New Delhi for Assessment Year 2015-16.

2. The grounds of appeal are as under:-

“That on the facts and law involved the Ld. Commissioner of income Tax (Appeals) [Ld. CIT(A)] erred in upholding the disallowance of Rs 2,92,0181- on account of allocation of interest under section 14A r.w Rule 8D(2)(ii) made by the Assessing Officer [Ld. AO].

2. *That the Ld. CIT (A) erred in upholding disallowance of pro-rata interest expenses of Rs. 292,0181- under section 14A estimated to have been incurred to earn tax-free dividend income though the assessee has huge own funds and huge cash profits far in excess of tax-free investments.*

3. *That the above disallowance u/s 14A has been upheld by the Ld. CIT(A) without appreciating the submissions of the assessee and as such too the disallowance as confirmed is liable to be struck. Binding case laws in assessee's favor has not been rebutted and as such too, the same deserved to be followed.*

4. *That the assessment as made and order of the Ld. CIT(A) are against law and facts of the case involved.*

5. *That the grounds of appeal as herein are without prejudice to each other.*

3. Brief facts of the case are that, the assessee is a Company registered under the Companies Act and engaged in the business of manufacturing, exporters and importers, traders, representatives consultants, distributions buyers and sellers of home furnishing item like cushion, bed cover sheets.etc. During the year Rs. 2,92,018/- was received by the assessee as dividend from investments. The only issue emerges from the grounds of Appeal is relate to confirmation of additional disallowance u/s 14A read with Rule 8D of the Act for Rs. 2,92,018/- by the CIT(A) which was made by the Assessing Officer as against the disallowance u/s 14A of Rs. 4,16,149/- computed by the assessee. Thus, the Assessing Officer computed the total income of the assessee at Rs. 24, 39,31,620/- as against the declared income of Rs. 23,22,44,100/-.

4. The Ld. Counsel for the assessee submitted that, in respect of the disallowance of interest is concerned, the investment in shares and mutual

funds were made by the assessee out of its own fund. There is no increase in investment yielding tax free income. There is no increasing investment rather there was a huge decrease. Since, the assessee has own interest free funds. Therefore, no disallowance can be made. But both the Assessing Officer and CIT(A) have rejected the said contention and sustained the disallowance of expenditure under Rule 8D(2) of Rs. 2,92,018/-. The Ld. Counsel for the assessee further submitted that, the said issue has been decided in favour of the assessee in assessee's own case for the AY 2012-13 in ITA No. 6344/Del/2016 vide order dated 24/02/2020 and & for the AY 2013-14 in ITA No. 3892/Del/2018 vide order dated 18/10/2021.

5. Per contra, the Ld. DR has not disputed the above facts and not put forth any ratio laid down contrary to the decisions relied by the Ld. AR.

6. We have considered the submissions of the parties, we find that, when the assessee had huge reservation and surplus fund which is non interest bearing fund, there cannot be disallowance of interest under Rule 8D(2). The similar issue has come up for consideration by the Tribunal in assessee's own case and the same have been decided in favour of the assessee for the AY 2012-13 in ITA No. 6344/Del/2016 vide order dated 24/02/2020, wherein it is held as under:-

"14. From the above, it can be deciphered that Rule 8D is not mandatory, the Assessing Officer must record his satisfaction that he is not satisfied with the correctness of the claim of the assessee in respect of such expenditure for cogent reasons. Satisfaction of the Assessing Officer has to be arrived at, having Taurus Home Furnishings Ltd. regard to the accounts of the assessed as enunciated in the case of Maxopp Investment Ltd. v CIT 402 ITR 640 (SC) and Godrej Boyce v DCIT (2017) 394 ITR 449 (SC).

15. From the records or from the arguments of the ld. DR, we find that the invocation of sub-Section (2) of Section 14A is conspicuously absent and hence re-computation of the disallowance is not legally valid. And considering the investments in mutual funds and in shares are through PMS, hardly any expense is incurred. As such the estimated disallowance made by assessee suo-moto is reasonable as it meets the expenses on account of STT as well as in direct expenses. Hence, we hereby hold that no additional disallowance is called for by invoking Rule 8D. All the grounds are treated as adjudicated as the core issues has been dealt in the above paragraphs.”

The similar view has also been taken by the Co-ordinate Bench of the Tribunal for AY 2013-14 in ITA No. 3892/Del/2018 vide order dated 18/10/2021. By respectfully following the above decisions, we allow the Assessee’s Grounds of Appeal for the AY 2015-16.

7. In the result, the Appeal of the Assessee is allowed.

Order pronounced in the open court on 05th July, 2022.

Sd/-

**(N. K. BILLAIYA)
ACCOUNTANT MEMBER**

Sd/-

**(YOGESH KUMAR U.S.)
JUDICIAL MEMBER**

Dated : 05/07/2022

R. Naheed

Copy forwarded to :

1. Appellant
2. Respondent
3. CIT
4. CIT (Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI