

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

BEFORE SHRI R.S. SYAL, VICE PRESIDENT AND
SHRI S.S. VISWANETHRA RAVI, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.426/PUN/2019

निर्धारण वर्ष / Assessment Year : 2015-16

Adurjee & Bros. Pvt. Ltd., Sarosh Bhavan, 16-B/1, Dr. Ambedkar Road, Pune - 411 001 Maharashtra PAN : AABCA4890J	Vs.	DCIT, Circle-1(1), Pune
Appellant		Respondent

Assessee by Shri R.S. Abhyankar
Revenue by Shri Arvind Desai

Date of hearing 06-07-2022
Date of pronouncement 06-07-2022

आदेश / ORDER

PER R.S. SYAL, VP :

This appeal by the assessee is directed against the order dated 10-01-2019 passed by the CIT(A)-1, Pune in relation to the assessment year 2015-16.

2. The only issue raised in this appeal is the confirmation of disallowance of Rs.44,35,887/- u/s.14A of the Income-tax Act, 1961 (hereinafter also called 'the Act').
3. Briefly stated, the facts of the case are that the assessee earned exempt income of Rs.64,20,228/- and offered

disallowance u/s.14A to the tune of Rs.19,84,341/-. The Assessing Officer (AO) invoked the provisions of section 14A read with Rule 8D of the Income-tax Rules, 1962 and computed the further amount disallowable at Rs.44,35,887/-. The Id. CIT(A) countenanced the disallowance. Aggrieved thereby, the assessee has come up in appeal before the Tribunal.

4. We have heard both the sides and gone through the relevant material on record. The only contention of the Id. AR was that the addition under Rule 8D of the Income-tax Rules, 1962 should be made by considering only such investments which yielded tax free dividend income. Other grounds challenging the improper satisfaction by the AO before making the disallowance etc. were not pressed. Such other grounds, ergo, stand dismissed.

5. Now coming to the issue pressed before the Tribunal, it is seen that the Hon'ble Delhi High Court in *ACB India Ltd. vs. CIT (2015) 374 ITR 108 (Del)* has held that the average value of investments, for the purposes of Rule 8D(2)(iii), should be confined to those securities in respect of which exempt income is earned and not the total investments. Similar view has been taken by the Special Bench of the Tribunal in the case of *ACIT vs.*

Vireet Investments (P) Ltd. (2017) 165 ITD 27 (Del) (SB). In view of the afore referred precedents, we set aside the impugned order to this extent and remit the matter to the file of the AO for re-computing the disallowance under Rule 8D(2)(iii) by considering only such investments, in calculating the average value of investments, which yielded exempt income during the year. The assessee will be allowed hearing opportunity in such fresh proceedings.

6. In the result, the appeal is partly allowed for statistical purposes.

Order pronounced in the Open Court on 06th July, 2022.

Sd/-
(S.S. VISWANETHRA RAVI)
JUDICIAL MEMBER

Sd/-
(R.S.SYAL)
VICE PRESIDENT

पुणे Pune; दिनांक Dated : 06th July, 2022
सतीश

आदेश की प्रतिलिपि □ ग्रेषित/Copy of the Order is forwarded to:

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent
3. The CIT(A)-1, Pune
4. The Pr.CIT-1, Pune
5. DR, ITAT, 'A' Bench, Pune
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,**// True Copy //**

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

		Date	
1.	Draft dictated on	06-07-2022	Sr.PS
2.	Draft placed before author	06-07-2022	Sr.PS
3.	Draft proposed & placed before the second member		JM
4.	Draft discussed/approved by Second Member.		JM
5.	Approved Draft comes to the Sr.PS/PS		Sr.PS
6.	Kept for pronouncement on		Sr.PS
7.	Date of uploading order		Sr.PS
8.	File sent to the Bench Clerk		Sr.PS
9.	Date on which file goes to the Head Clerk		
10.	Date on which file goes to the A.R.		
11.	Date of dispatch of Order.		

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