

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

ITA No. 1380/PUN/2018

निर्धारण वर्ष / Assessment Year : 2015-16

Poonawalla Shares & Securities Pvt. Ltd., Sarosh Bhavan, 16-B/1, Dr. Ambedkar Road, Pune – 411 001, Maharashtra PAN : AAACP6087H	Vs.	DCIT, Central Circle-4, Pune
Appellant		Respondent

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

Date of hearing 07-07-2022  
Date of pronouncement 08-07-2022

आदेश / ORDER

PER R.S. SYAL, VP :

This appeal by the assessee arises out of the order dated 07-06-2018 passed by the CIT(A)-3, Pune in relation to the assessment year 2015-16.

2. The only issue raised in this appeal is against the disallowance 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 dividend income from Indian companies to the tune

of Rs.1,76,60,417/-. Certain amount was shown as attributable to the exempt income and hence disallowable u/s 14A of the Act. The Assessing Officer (AO) revised the disallowance u/s.14A, as per the mandate of Rule 8D(2)(iii), at ½% of average value of investments and made further addition of Rs.7,79,645/-. The Id. CIT(A) affirmed the addition, against which the assessee has approached the Tribunal.

4. We have heard the rival submissions and gone through the relevant material on record. The only issue pressed is about restricting the addition under Rule 8D(2)(iii) of the Income-tax Rules, 1962 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 08<sup>th</sup> July, 2022.

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

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

पुणे Pune; दिनांक Dated : 08<sup>th</sup> July, 2022  
*Satish*

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

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. The CIT(A)-3, Pune
4. The Pr.CIT-2, Pune
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, पुणे "A" /  
DR 'A', ITAT, 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	07-07-2022	Sr.PS
2.	Draft placed before author	07-07-2022	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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