

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

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER  
AND  
SHRI S.S. VISWANETHRA RAVI, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.521/PUN/2019  
निर्धारण वर्ष / Assessment Year : 2014-15

Forbes Marshall Pvt. Ltd.,  
A-34/35, H Block, MIDC,  
Pimpri, Pune – 411018

PAN : AAACF2630E

.....अपीलार्थी / Appellant

**बनाम / V/s.**

DCIT, Circle – 9,  
Pune

.....प्रत्यर्थी / Respondent

Assessee by : Shri Kishor B. Phadke  
Revenue by : Shri Arvind Desai

सुनवाई की तारीख / Date of Hearing : 02-08-2022  
घोषणा की तारीख / Date of Pronouncement : 03-08-2022

**आदेश / ORDER**

**PER S.S. VISWANETHRA RAVI, JM :**

This appeal by the assessee against the order dated 06-02-2019 passed by the Commissioner of Income Tax (Appeals)-6, Pune [‘CIT(A)’] for assessment year 2014-15.

2. Ground Nos. 1 and 2 are general in nature, hence, require no adjudication.

3. Ground No. 3 raised by the assessee challenging the action of CIT(A) in confirming the disallowance of expenditure made under Rule 8D(2)(ii) of the Rules r.w.s. 14A of the Act.

4. We find the AO disallowed an expenditure of Rs.55,43,923/- on account of interest paid. The CIT(A) confirmed the same. We note that the assessee contended the investments are made from its own funds and no expenditure of interest was incurred in making investments. We find the Balance sheet as on 31-03-2014 of the assessee at page 4 of the paper book, wherein, we note that the assessee has share capital, reserve and surplus to an extent of Rs.224,05,06,231/- and investments to an extent of Rs.46,92,16,204/- which is evident from the financial statement as on 31-03-2014 at page 9 of the paper book. It is a settled principle that when the assessee had reserve and surplus more than the investments made presumption is to be that the assessee made investments from its own funds. As discussed above as evident from the Balance sheet that the assessee has Rs.224,05,06,231/- which are more than the investments made which is evident from page 9 of the paper book. Therefore, it is presumed that the assessee investments from its own funds and the disallowance made Rule 8D(2)(ii) on account of interest expenditure is not maintainable. Thus, the order of CIT(A) is not justified and it is set aside. Thus, ground No. 3 raised by the assessee is allowed.

5. Ground No. 4 is relating to disallowance under Rule 8D(2)(iii) of the Rules.

6. We find that the assessee earned exempt income of Rs.15,63,02,464/- and AO made disallowance under Rule 8D(2)(iii) at 0.5% of average investments as on first day and last day of previous year to an extent of Rs.15,95,794/-. The CIT(A) confirmed the same. The ld. AR fairly conceded that this Tribunal held the similar issue in earlier years against the assessee and referred to pages 25 and 33 of the paper book. The assessee accepted the order of ITAT in confirming the said disallowance

under Rule 8D(2)(iii) with a heavy hurt. We note that this Tribunal in assessee's own case for A.Y. 2009-10 confirmed the disallowance made under Rule 8D(2)(iii) vide its order dated 08-10-2015 which is evident from page 31 of the paper book. Further, following the said order, this Tribunal sustained the disallowance under Rule 8D(2)(iii) vide order dated 26-02-2020 for A.Ys. 2008-09, 2011-12 and 2012-13 which is evident from page 38 of the paper book. Thus, in view of the same, we find no infirmity in the order of CIT(A) in confirming the disallowance under Rule 8D(2)(iii) r.w.s. 14A of the Act. Thus, ground No. 4 raised by the assessee is dismissed.

7. In the result, the appeal of assessee is partly allowed.

Order pronounced in the open court on 03<sup>rd</sup> August, 2022.

Sd/-  
(Inturi Rama Rao)  
ACCOUNTANT MEMBER

Sd/-  
(S.S. Viswanethra Ravi)  
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 03<sup>rd</sup> August, 2022.

रवि

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A)-6, Pune
4. The Pr. CIT-5, Pune
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "ए" बेंच,  
पुणे / DR, ITAT, "A" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

//सत्यापित प्रति// True Copy//

आदेशानुसार / BY ORDER,

वरिष्ठ निजी सचिव / Sr. Private Secretary  
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune